

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE

House Bill 989 (Chairman, Ways and Means Committee)
(By Request – Departmental – Business and Economic Development)

Ways and Means

**Business and Economic Development - Job Creation Tax Credit and One
Maryland Economic Development Tax Credit - Disaster Relief**

This emergency departmental bill authorizes the Department of Business and Economic Development (DBED) to extend from two to three years the requirement that in order to qualify for either the Job Creation or One Maryland Economic Development Tax Credit, businesses must hire a minimum number of jobs within a specified time period. DBED is authorized to grant this extension if the business is located in an area that has been declared a federal disaster area and DBED determines that the qualified business was unable to create the minimum number of jobs in the two-year period due to the disaster.

The provisions of the bill apply retroactively to September 1, 2003.

Fiscal Summary

State Effect: The extent of any revenue loss depends on the number of taxpayers who would qualify for the tax credits under the new provisions of the law, the amount that these taxpayers would earn, and when these credits would be claimed. Under one set of assumptions, revenues could decline by approximately \$89,000 in both FY 2007 and FY 2008, and again by similar amounts in the years following the next natural disaster.

Local Effect: If all of these credits were claimed against the corporate income tax, local tax revenues would decline by approximately \$6,400 in both FY 2007 and in FY 2008, and again by similar amounts in the years following the next natural disaster.

Small Business Effect: DBED has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: In order to claim either credit, a business must create qualifying jobs within a two-year period of claiming a credit.

Background: The Federal Emergency Management Agency (FEMA) declared areas in Maryland to be disaster areas three times in the five-year time period from 1999 to 2003 as listed below.

<u>Disaster</u>	<u>Date</u>	<u>Counties Affected</u>
Hurricane Floyd	3/24/1999	11
Tornado	5/1/2002	3
Hurricane Isabel	9/19/2003	24

Job Creation Tax Credit

The Job Creation Tax Credit was established by Chapter 84 of 1996 and terminates January 1, 2007. It provides a tax credit to businesses that expand or establish a facility in Maryland that results in the creation of new jobs. The credit can be applied against the following taxes: corporate or personal income; insurance premium; and public service franchise. In any year, however, the credit may only be applied against one tax. The credit can be recaptured during any of the three taxable years following the claiming of the credit.

The threshold for eligibility is the creation of 60 new jobs within a two-year period. The new jobs must be full-time, permanent, filled, located in Maryland, and pay at least 150% of the federal minimum wage (currently approximately \$16,050 annually). The threshold is lowered to (1) 30 new jobs if the average salaries of the new jobs are highly paid as determined by a sliding scale relative to the average State salary; and (2) 25 new jobs if the new jobs are created within a State priority funding area.

The value of the credit depends on the number of jobs created, the wages of those jobs in the year the credit was claimed, and whether the jobs were created in a revitalization area. If the jobs were not created in a revitalization area, then the credit is equal to the lesser of \$1,000 or 2.5% of the wages paid associated with those jobs in the year the credit was claimed. If the jobs were created in a revitalization area, the credit is equal to the lesser of \$1,500 or 5% of the wages paid associated with those jobs. The credit is ratable for two years. Any unused portion of the credit can be carried forward for up to five tax years. The total credit claimed cannot exceed \$1 million for any one business.

One Maryland Economic Development Credit

Businesses that establish or expand a business facility in a priority funding area or as part of a project approved by the Board of Public Works, and that are located in a “distressed” Maryland county, may be entitled to a tax credit for costs related to a new or expanded facility. A “distressed” county has an average rate of unemployment that is 150% higher than the statewide average or an average per-capita personal income that is equal to or less than 67% of the statewide average. The credit for start-up costs is the lesser of 100% of eligible start-up costs (up to \$500,000), less any credits taken in prior years, or \$10,000 multiplied by the number of employees that have filled the newly created, qualified positions. The credit for project costs is the lesser of 100% of eligible project costs (up to \$5 million), less any credits taken in prior years, or the State income tax liability for the taxable year from the project. No credit may be claimed against the insurance premium tax for the first year or for the next four years after the project is placed in service.

If the credit is more than the tax liability, the unused credit may be carried forward for the next 14 tax years. At any time after the fourth tax year following the tax year in which the project is placed in service, but before the expiration of the fifteenth year, the business may apply the excess credit to nonproject-related taxable income. Excess unused credits may be refunded. If the majority of the positions created are paid at 250% or more of the minimum wage and the first notice of intent to seek certification is filed with DBED as of July 1, 2002, the excess credit may be used against the tax on nonproject income or refunded two years earlier.

For any tax year, the total of any refund claimed for the project cost credit and the amounts used against the taxpayer’s nonproject Maryland tax liability for that credit may not exceed State and local taxes that must be withheld from the newly hired employees. For the start-up cost credit, the amount to be refunded may not exceed the State and local taxes required to be withheld from the newly hired employees.

State Revenues: The exact cost of the bill, which cannot be reliably estimated at this time, depends on the number of businesses who would qualify for the tax credits under the new provisions of the law, the amount that these taxpayers would earn and when these credits would be claimed.

However, *for illustrative purposes only*, revenues could decline by approximately \$89,000 in fiscal 2006 and fiscal 2007. This estimate is based on the following facts and assumptions:

- since the inception of the program, on average 14 returns have claimed the job creation tax credit in the average amount of \$29,663;

- the credit is ratable over a two-year period;
- an additional three taxpayers are assumed to have applied for the credit in 2003 and would not meet the program's current requirements but will meet the new provisions provided under the law; and
- according to the Comptroller's Office, less than \$10,000 in One Maryland Economic Development Tax Credits were claimed in tax year 2000 and 2001. It is estimated that no additional businesses will qualify for tax credits due to the provisions of this bill.

Future year losses will depend on the frequency that FEMA declares Maryland disaster areas and the number of businesses seeking the tax credits who would not meet the two-year requirement under the bill but would qualify if DBED grants a one-year extension.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Department of Assessments and Taxation, Department of Business and Economic Development, Federal Emergency Management Agency, Comptroller's Office, Department of Legislative Services

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lc/mdr

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