HB 1391

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1391 (Delegate Vaughn, *et al.*)

Economic Matters and Ways and Means Budget and Taxation

Tax Credits for Individuals Facing Employment Barriers

This bill reestablishes the Pilot Program for the Long-Term Employment of Qualified Ex-Felons. The Department of Labor, Licensing, and Regulation (DLLR), in consultation with the Governor's Workforce Investment Board, is to reestablish the program effective January 1, 2007. The program applies to tax years 2007 through 2011, with respect to individuals hired on or after January 1, 2007 through December 31, 2011; and terminates June 30, 2012.

The bill also extends the State Employment Opportunity Credit (Work, Not Welfare Tax Credit) and Qualifying Employees with Disabilities Tax Credit. Under current law, the programs terminate June 30, 2006 and the credits can only be claimed for qualifying individuals hired through June 30, 2006. The bill extends the termination date of the programs to June 30, 2007 and can be claimed on behalf of individuals hired through June 30, 2007.

The bill takes effect July 1, 2006.

Fiscal Summary

State Effect: General fund revenues could decrease by approximately $372,300 in FY 2007 due to extension of the State Employment Opportunity and Qualifying Employees with Disabilities tax credits. TTF revenues could decrease by approximately $82,300 in FY 2007 due to extension of these credits. General fund revenues could decrease by approximately $622,000 in FY 2008 due to extension of all three credits proposed by the bill. TTF revenues would decrease by approximately $119,400 in FY 2008. Revenue decreases in FY 2009 and beyond reflect impact of reestablishing the Pilot Program for the Long-Term Employment of Qualified Ex-Felons. General fund expenditures would increase at DLLR beginning in FY 2007 for the purchase of fidelity bonds and grant money to designated training centers.

(in dollars)	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
GF Revenue	($372,300)	($622,000)	($335,500)	($335,500)	($335,500)
SF Revenue	(82,300)	(119,400)	(45,700)	(45,700)	(45,700)
GF Expenditure	57,500	115,000	115,000	115,000	115,000
Net Effect	($512,100)	($856,400)	($496,200)	($496,200)	($496,200)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local highway user revenues would decrease by approximately $24,700 in FY 2007, $35,800 in FY 2008, and by $13,700 annually in FY 2009 through 2011.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill requires DLLR to reestablish and administer the pilot program in consultation with the Governor's Workforce Investment Board. The pilot program is intended to provide incentives for the hiring of up to 150 qualified ex-felons each year through existing one-stop employment and training centers in at least two of the State's Workforce Investment Areas (WIA). The one-stop centers will work with community organizations and any State or local government entities that provide services to ex-felons and will also provide outreach and education to employers about the program.

A business entity that hires a qualified ex-felon through the pilot program will be able to obtain a one-year federal fidelity bond for the qualified ex-felon for the first year of employment. The department is required to purchase federal fidelity bonds and to provide the bonds to the designated one-stop centers for up to 150 qualified ex-offender participants each year.

A business entity may claim a tax credit for wages paid to a qualified ex-felon employee. For each taxable year, a credit is allowed in an amount equal to: (1) 30% of up to the first $6,000 of the wages paid to the qualified ex-felon employee during the first year of employment; and (2) 20% of up to the first $6,000 of the wages paid to the qualified ex-felon employee during the second year of employment. A tax-exempt organization may apply the credit against income tax due on unrelated business taxable income or for the payment to the Comptroller of taxes that the organization is required to withhold from the wages of employees and is required to pay to the Comptroller.

A business entity may not claim the credit under this section until it has notified DLLR that a qualified ex-felon employee has been hired. A business entity may not claim the credit: (1) if the business entity is simultaneously receiving federal or State employment training benefits for the same employee; or (2) the ex-felon (a) is related to an individual who owns 50% or more of the business; or (b) was hired to replace a laid off or striking employee.

Any excess credit may be carried forward for up to five taxable years. A taxpayer claiming the credit is required to make an additional modification in the amount of the credit claimed. DLLR, in consultation with the Governor's Workforce Investment Board, and the Comptroller are required to adopt regulations to carry out the provisions of the bill.

Current Law: The Pilot Program for the Long-Term Employment of Qualified Ex-Felons terminated December 31, 2004. The State Employment Opportunity Tax Credit (Work, Not Welfare Tax Credit) and Qualifying Employees with Disabilities Tax Credit programs expire June 30, 2006.

Background: Chapter 533 of 2002 established the Pilot Program for the Long-Term Employment of Qualified Ex-Felons. The pilot program was to be in existence for three years. The legislation provided incentives for the hiring of up to 150 qualified ex-felons each year through existing one-stop employment and training centers in at least two of the State's WIAs. Although the legislation required DLLR to establish and implement the pilot program, DLLR indicates that this never occurred. As a result, no employers were issued federal fidelity bonds and no employers were authorized to claim State tax credits for individuals certified as ex-felons. DLLR advises that plans to implement the pilot program were initially taken and that Baltimore City and Prince George's County were identified as the pilot program counties. DLLR further indicates that some training was done in the one-stop centers in these jurisdictions and some promotional materials were developed for distribution to potential employers. Despite the initial planning to implement the pilot program, actual implementation never occurred.

The federal Work Opportunity Tax Credit program provides tax credits to employers for employing individuals in eight target groups including qualified ex-felons, Temporary Assistance for Needy Families recipients, individuals employed in empowerment zones, and disabled individuals. The federal tax credit is not available for individuals hired after January 1, 2006.

Under federal law, a qualified ex-felon is any individual who: (1) is certified as having been convicted of a felony under federal or State law; (2) has a hiring date which is not more than one year after the date of conviction or release from prison; and (3) is a member of a family with an income during the prior six months that is 70% or less of the Bureau of Labor Statistics lower living standard.

There are 12 WIAs in Maryland and in each area there is at least one one-stop employment and training center. The 12 WIAs are: Anne Arundel County, Baltimore County, Baltimore City, Frederick County, Mid-Maryland (Carroll and Howard counties), Montgomery County, Prince George's County, Southern Maryland (Calvert, Charles, and St. Mary's counties), Susquehanna Region (Cecil and Harford counties), Upper Shore (Kent, Queen Anne's, Talbot, Caroline, and Dorchester counties), Lower Shore (Somerset, Wicomico, and Worcester counties), and Western Maryland (Washington, Allegany, and Garrett counties).

The State Employment Opportunity Credit (Work, Not Welfare Tax Credit) allows employers who hire an individual who is a recent recipient of temporary cash assistance from the State to claim a tax credit for certain wages paid to the employee and for child care and transportation expenses paid on behalf of the employee in the first two years of employment. Employers can claim a credit equal to 30% of the first $6,000 of the wages paid to the employee (20% in year two). If the employee was a recipient of temporary cash assistance from the State for at least 18 of the last 48 months, the credit is equal to 40% of the first $10,000 in wages paid if the employee was employed for at least one full year. Employers can claim a credit of up to $600 of child care or transportation expenses paid on behalf of qualifying employees in the first year of employment ($500 in year two). The amount of the credit may not exceed the tax liability in the year, and any unused amount may not be carried forward to any other tax year. The credit can be claimed with regard to individuals hired on or after June 1, 1995 through June 30, 2006. The program terminates June 30, 2006.

The Qualifying Employees with Disabilities Tax Credit also allows employers who hire a qualified individual with disabilities to claim a tax credit for certain wages paid to the employee and for child care and transportation expenses paid on behalf of the employee in the first two years of employment. A qualified individual with a disability is a person who: (1) meets the definition of an individual with a disability as defined by the Americans with Disabilities Act; (2) has a disability that presently constitutes an impediment to obtaining or maintaining employment or to transitioning from school to work; (3) is ready for employment; and (4) has been determined as having met the criteria of a qualified employee with a disability. The credit is calculated in the same manner as the State Employment Opportunity Credit, except that the credit for wages paid in the first year of employment is equal to 20% of the fist $6,000 in wages if the employee was hired before July 1, 2000. The amount of the credit may not exceed the tax liability in the year, and any unused amount may not be carried forward to any other tax year. The credit can be claimed on behalf of individuals hired on or before October 1, 1997 through June 30, 2006. The program terminates June 30, 2006. Employers who claim either credit are required to add-back to federal adjusted gross income the amount of credits claimed.

Exhibit 1 lists the amount of credits claimed in tax year 1999 through 2004 for the State Employment Opportunity and Qualifying Employees with Disabilities tax credits.

Exhibit 1
Credits Claimed
Tax Year 1999-2004

	Employment Opportunity	Qualified Employees with Disabilities
1999	510,960	59,516
2000	541,108	54,263
2001	418,401	23,303
2002	524,330	21,701
2003	776,823	183,593
2004	440,421	381,351

State Revenues: The bill allows credits to be claimed under the Pilot Program for the Long-Term Employment of Qualified Ex-Felons beginning in tax year 2007 and extends the State Employment Opportunity and Qualifying Employees with Disabilities Tax Credits for individuals hired through June 30, 2007. As a result, general fund revenues could decrease by approximately $372,300 in fiscal 2007, $622,000 in fiscal 2008, and by $335,500 annually in fiscal 2009 through 2011. TTF revenues could decrease by approximately $82,300 in fiscal 2007, $119,400 in fiscal 2008, and $45,700 annually in fiscal 2009 through 2011. The fiscal impact of extending each credit is discussed below.

Pilot Program for the Long-Term Employment of Qualified Ex-Felons

The bill authorizes tax credits beginning with tax year 2007. As a result, general fund revenues could decrease by approximately $223,600 in fiscal 2008 and by approximately $335,400 from fiscal 2009 through 2011. TTF revenues could decrease by approximately $30,500 in fiscal 2008 and by $45,700 annually in fiscal 2009 through 2011. This estimate is based on the following facts and assumptions:

- DLLR will establish a viable program that provides for the employment of 150 qualified ex-felons.
- Based on a Government Accounting Office study of the federal Work Opportunity Credit, 50% of the credits will be claimed against the corporate income tax and 50% will be claimed against the personal income tax.
- The add-back provision in the bill reduces revenue losses by approximately $15,900 in fiscal 2008 and by $23,800 in fiscal 2009 through 2011.

To the extent that DLLR establishes a program that provides for employment of fewer than 150 qualified ex-felons annually, or none at all as under the previous program, revenue losses will be less than estimated.

State Employment Opportunity Credit

Under the bill, credits can be claimed for individuals hired through June 30, 2007, an extension of one year (one-half of tax year 2006 and one-half of tax year 2007). As a result, general fund revenues could decrease by approximately $233,800 in fiscal 2007 and $239,000 in fiscal 2008. TTF revenues could decrease by approximately $44,900 in fiscal 2007 and $45,900 in fiscal 2008. This estimate is based on the following facts and assumptions:

- Based on the existing history of the credit, it is estimated that a total of approximately $594,500 would be claimed in tax year 2006 and $607,700 would be claimed in tax year 2007 if available for all of tax year 2006 and 2007.
- The bill applies to one-half of tax year 2006 and one-half of tax year 2007.
- 67% of credits have been claimed against the corporate income tax.
- The add-back provision of the credit reduces revenue losses by approximately $18,600 in fiscal 2007 and $19,000 in fiscal 2008.

Qualifying Employees with Disabilities Tax Credit

Under the bill, credits can be claimed for individuals hired through June 30, 2007, an extension of one year (one-half of tax year 2006 and one-half of tax year 2007). As a result, general fund revenues could decrease by approximately $138,500 in fiscal 2007 and $159,400 in fiscal 2008. TTF revenues could decrease by approximately $37,400 in fiscal 2007 and $43,000 in fiscal 2008. This estimate is based on the following facts and assumptions:

- Based on the existing history of the credit, it is estimated that a total of approximately $377,200 would be claimed in tax year 2006 and $434,200 would be claimed in tax year 2007 if available for all of tax year 2006 and 2007.
- The bill applies to one-half of tax year 2006 and one-half of tax year 2007.
- 89% of credits have been claimed against the corporate income tax.
- The add-back provision of the credit reduces revenue losses by approximately $12,700 in fiscal 2007 and $14,600 in fiscal 2008.

State Expenditures: DLLR reports that it would incur additional expenses in order to purchase fidelity bonds, provide grant money to the one-stop centers in WIAs, and hire one job service specialist to administer the program. DLLR estimates that purchasing the bonds will cost $15,000 on an annual basis and would need to provide $100,000 in grant money. DLLR estimates that general fund expenditures would increase by approximately $163,400 in fiscal 2007 in order to implement the program.

Legislative Services estimates that the program can be administered within existing budgeted resources. In addition, the program is effective January 1, 2007. There would be six months of the program in fiscal 2007, halving the bonding and grant money costs incurred in fiscal 2007. General fund expenditures would increase at DLLR by approximately $57,500 in fiscal 2007 and $115,000 annually in fiscal 2008 through 2011.

Additional Information

Prior Introductions: SB 239 of 2005, an identical bill, passed the Senate but was not reported from the House Economic Matters and Ways and Means Committees.

Cross File: SB 193 (Senator Jones, *et al.*) – Budget and Taxation.

Information Source(s): Bureau of Labor Statistics; Comptroller's Office; Department of Labor, Licensing, and Regulation; Government Accounting Office; Department of Legislative Services

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