HB 795

Department of Legislative Services

Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 795 (Delegate Summers, *et al.*)
Ways and Means

Economic Development - Green Business Incentive Zones

This bill creates a Green Business Incentive Zone Program. Businesses located in the zone that meet certain requirements can qualify for a property tax credit for a portion of the real property improvements made by the business, an income tax credit for a portion of the wages paid to qualifying employees, and financial assistance from existing Department of Business and Economic Development (DBED) programs. DBED is required to administer the program, and may designate up to six zones in a calendar year.

The bill takes effect July 1, 2011, and applies to tax year 2011 and beyond.

Fiscal Summary

State Effect: General fund revenues may decrease significantly beginning in FY 2012 due to eligible businesses claiming income tax credits. It is estimated that the revenue loss will likely not exceed $100,000 annually. Potential significant decrease in general fund, Transportation Trust Fund (TTF), and Higher Education Investment Fund (HEIF) revenues beginning in FY 2012 due to credits claimed against the corporate income tax. Potential significant general fund expenditure increase beginning in FY 2014 for reimbursement of local property tax credits. Under one set of circumstances, general fund expenditures may increase by $823,800 in FY 2014, $947,100 in FY 2015, and by $1.2 million in FY 2016 for reimbursements and administrative costs. General fund expenditures increase by $40,000 in FY 2012 for one-time tax form changes and computer programming modifications at the Comptroller's Office. **This bill establishes a mandated appropriation beginning in FY 2014.**

(in dollars)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
GF Revenue	($100,000)	($100,000)	($100,000)	($100,000)	($100,000)
SF Revenue	(-)	(-)	(-)	(-)	(-)
GF Expenditure	$40,000	$69,700	$823,800	$947,100	$1,081,100
Net Effect	($140,000)	($169,700)	($923,800)	($1,047,100)	($1,181,100)

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

Local Effect: Property tax revenues in counties and municipalities in which a zone is designated will decrease as a result of the bill. Under the assumptions above, local property tax revenues may decrease by $750,000 in FY 2014, $870,000 in FY 2015, and by $1.0 million in FY 2016. Local highway user revenues distributed to Baltimore City, counties, and municipalities will decrease as a result of income tax credits claimed against the personal income tax. Local expenditures may increase minimally to administer the program.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill establishes a Green Business Incentive Zone within DBED. Qualified green businesses can qualify for property tax credits for local real property improvements, State income tax credits for hiring eligible employees, and existing DBED financial assistance programs for businesses.

Program Eligibility

Green businesses that are certified by a local governing body as meeting the requirements of the bill and establish or expand existing operations within the zone may qualify for two tax credits created by the bill. In addition, when deciding to provide financial assistance under existing programs, DBED is required to consider whether the project is located in a green business incentive zone. The bill states that enactment of any subsequent law cannot eliminate or reduce the tax benefits proposed by the bill for any green business that was located in the green business zone and met the qualifications of a green business.

A green business is defined as a business entity that is primarily engaged in researching, manufacturing, or deploying (1) technologies or services related to renewable energy, energy storage, or energy efficiency and conservation; and (2) other technologies or services that contribute directly or indirectly to the production of energy from renewable or sustainable sources or the improvement of efficiency in the use of energy.

The bill specifies the circumstances under which the credits can be claimed when a business is located (1) in a BRAC revitalization and incentive zone; or (2) on government-owned land or improvements, except for a green business leasing land or improvements owned by the Maryland Economic Development Corporation. A green business cannot claim the property or income tax credit proposed by the bill if it claims the Enterprise Zone property or income tax credit, respectively.

Zone Designation

A county or municipality may apply to DBED to designate a green business incentive zone for an area within the county or municipality. In addition, a county may apply on behalf of a municipality with the prior consent of the municipality. An application must (1) contain sufficient information for DBED to determine if the proposed zone meets eligibility requirements; (2) state whether the governing body will establish expedited permitting processes for green businesses located in the proposed zone; and (3) state the standards a green business must meet, including a requirement to provide job training, internship, or apprenticeship programs.

DBED may designate a zone if the area (1) is located within a priority funding area; (2) is served by public or community water and sewer system or plans to under an approved 10-year water and sewer plan; (3) is designated for mixed use development that includes residential uses as part of the mix of land uses; and (4) has an average density of at least 3.5 units per acre. Before designating a zone, DBED is required to (1) consider 17 factors; and (2) consult with the Clean Energy Center. DBED can designate up to six zones and no more than one zone in each county in a calendar year. The designation of a zone lasts for 10 years. The bill establishes the process necessary to expand an existing zone.

Property Tax Credit

The bill creates a property tax credit for green businesses located within the green zone. Real property tax credits are 10-year credits against local real property taxes on a portion of the qualifying real property improvements. The credit is equal to 80% of the assessment increase during the first five years; decreasing by 10% annually thereafter and equaling 30% in the tenth year. As provided for in the State budget, the State Department of Assessments and Taxation (SDAT) is required to reimburse local governments for one-half of the cost of the property tax credit. The property tax credit may be claimed against the county property tax credit only with the consent of the county. The bill states that the property tax credit may be claimed by a green business after expiration of the zone for real property improvements made within five years of the zone expiration.

Income Tax Credit

A qualified green business may claim an income tax credit for $1,000 of the wages paid to a qualified employee. To qualify for the income tax credit, a business must hire an employee who (1) is a new employee or rehired after being laid off for more than one year by a green business*;* (2) earns at least 150% of the federal minimum wage; (3) is employed for a minimum of 35 hours weekly for at least six months and spends at least 50% of this period of employment in the green business zone or on activities of the green business resulting directly from its location in the zone*;* and (4) is hired after the date the business located in the green zone or the green zone is designated whichever is later.

An enhanced credit of up to $3,000 is available if the eligible employee is certified by the Department of Labor, Licensing, and Regulation (DLLR) as an economically disadvantaged individual. If the credit exceeds the tax liability imposed in the tax year, the excess amount of the credit can be carried forward for up to five tax years.

Program Administration

DBED is required to administer the program and may adopt regulations to implement the program. DBED and the Comptroller's Office are required to jointly assess the effectiveness of the tax credits and report annually to the Governor and General Assembly their findings by December 15.

Current Law: The State offers several tax credits and incentives for renewable energy as discussed below.

Background:

Maryland Enterprise Zones

The tax credits for green businesses proposed by the bill are very similar to credits available to businesses under the Maryland Enterprise Zone program. The Enterprise Zone program is a joint effort between the State and local governments to provide tax incentives to businesses and property owners located in areas of the State designated as economically distressed areas. The program was created in 1982 with 2 zones and has grown to include 29 zones. Businesses located within an enterprise zone are eligible for local property tax credits and State income tax credits for a period of 10 years.

The Secretary of Business and Economic Development may designate up to six enterprise zones during one calendar year if the zone meets specified requirements. A county may not receive more than two enterprise zone designations in the calendar year. DBED advises that enterprise zones must be located in a priority funding area and must meet one of four economic criteria, which limit the areas of the State that can qualify and that the criteria for designating a green zone under the bill is much broader. As a result, much more of the State will be eligible to be a green zone, although it is limited to green businesses. About 77,500 acres of the State have been designated as an enterprise zone.

All businesses in an enterprise zone may qualify for tax credits as described below.

Real property tax credits are 10-year credits against local real property taxes on a portion of the qualifying real property improvements. The credit is equal to 80% of the assessment increase during the first five years; decreasing by 10% annually thereafter and equaling 30% in the tenth year. SDAT reimburses local governments for one-half of the cost of the property tax credit. In fiscal 2012, 1,027 businesses will claim property tax credits related to a total of $3.2 billion in capital investments, an average of $3.1 million of investment per business. SDAT will reimburse local governments $19.0 million in fiscal 2012.

In addition to the property tax credit, businesses located in a Maryland enterprise zone can also claim an income tax credit for wages paid to newly hired employees. The credits are based on the wages paid during the taxable year to each qualified employee. An enhanced credit is available if the business is located within a focus area in the enterprise zone or the employee is certified by DLLR as being economically disadvantaged. In tax year 2007, a total of $809,800 in enterprise zone income tax credits were claimed.

The BRAC Revitalization and Incentive Zone Program established in 2008 is also similar to this bill.

Government Renewable Energy Programs

The federal government and state and local governments operate a multitude of programs intended to encourage the establishment of a viable renewable energy industry that could eventually meet the nation's energy needs in a cost-effective manner while simultaneously reducing some of the harmful impacts created by fossil fuel energy production. In recent years, there has been increasing focus in the tax code on energy conservation and renewable energy production standards. While the federal Joint Committee on Taxation notes that economists generally agree that the most efficient means of addressing pollution would be a direct tax on the pollution-causing activities, the more indirect approach of targeting tax credits for certain technologies has been utilized. Considerable debate exists over the efficacy of these programs in reducing greenhouse gas emissions and helping reduce dependence on fossil fuels as well as concerns over its costs (for example, the federal biofuel tax credits reduced federal receipts by $6.0 billion in federal fiscal 2009) and potential unintended consequences.

The State operates several programs that promote renewable energy production and energy efficiency and conservation including:

- *The Renewable Portfolio Standards*: These standards require that renewable energy must comprise a specified minimum percentages of Maryland's total electricity supply in each year;
- *The Maryland Strategic Energy Investment Fund*: These revenues, generated from the proceeds from the sale of carbon dioxide allowances under the Regional Greenhouse Gas Initiative, provide a majority of funding for State renewable energy and efficiency projects;
- *Maryland Energy Administration (MEA) Clean Energy Programs*: MEA is currently charged under State law with administering a number of programs aimed at encouraging energy efficiency and renewable energy projects in the State;
- *Maryland Clean Energy Center (MCEC)*: MCEC was established to generally promote and assist the development of the clean energy industry in the State and promote the deployment of clean energy technology in the State;
- *EmPOWER Maryland*: The EmPOWER Maryland Energy Efficiency Act of 2008 (Chapter 131) requires electric companies to procure and provide customers with energy conservation and energy efficiency programs and services that are designed to achieve targeted electricity savings and demand reductions for specified years;
- *Environmental Trust Fund (ETF):* ETF was established by Chapter 31 of 1971 to fund electric power plant site evaluation and acquisition and research on environmental and land use consideration associated with power plants; and
- *Clean Energy Incentive Tax Credit*: This tax credit provides up to $25 million in tax credits for the production of qualified renewable energy resources.

In addition, several counties provide property tax incentives for renewable energy and energy efficiency including the green building property (Carroll County), high-performance building property (Montgomery County), and solar and geothermal residential property (Prince George's County).

According to the Pew Charitable Trust, in 2007 there were a total of 1,145 green businesses with total employment of 12,908 or 0.5% of total nonfarm employment in the State. From 1998 to 2007, the number of green jobs in Maryland was estimated to decrease by 0.11% annually.

State Fiscal Effect: The bill creates two tax credits for eligible green businesses in a green zone designated by DBED. Each of the impacts is discussed below.

Property Tax Reimbursement Appropriations

The bill requires that, as provided in the State budget, the State reimburse counties and municipal corporations for one-half of the revenue loss resulting from the property tax credit created by the bill. As a result, general fund expenditures may increase significantly beginning in fiscal 2014. The amount of reimbursements will depend on the number of zones created under the bill, the number of businesses claiming the credit, if any, and the amount of qualifying real property improvements. However, the bill prevents a green business from claiming both the property tax credit proposed by the bill and the enterprise zone credit. Property tax reimbursement expenditures under the bill might have otherwise been incurred to the extent the zones overlap.

In fiscal 2012, an average of 37 businesses claimed the enterprise zone personal property tax credit for each enterprise zone; requiring a State reimbursement of about $500,000 per zone. If DBED designates the maximum six zones in 2011 and one zone in each successive year, general fund expenditures may increase by about $750,000 in fiscal 2014, $870,000 in fiscal 2015, and by $1.0 million in fiscal 2016. This estimate assumes an average of five businesses claim the property tax credit for each zone and real property improvements of $5.0 million on average. General fund expenditures may be significantly different than estimated.

Administrative Costs

The Comptroller's Office reports that it will incur one-time expenditures of $40,000 in fiscal 2012 to add the tax credit to the income tax forms. This amount includes data processing changes to the SMART income tax return processing and imaging systems and systems testing.

SDAT reports that they will require one administrator in order to process property tax reimbursements. As a result, general fund expenditures increase by $69,700 in fiscal 2013 and increase by about 5% annually thereafter.

DBED and DLLR report they can implement the requirements of the bill with existing budgeted resources.

Income Tax Credits

Green businesses may begin claiming tax credits for eligible employees beginning in tax year 2011. As a result, general fund, TTF, and HEIF revenues may decrease significantly beginning in fiscal 2012. Based on the amount of employment income tax credits under the enterprise zone program and estimated employment in enterprise zones and by green businesses, it is estimated that revenue losses will likely not exceed $100,000 annually.

To the extent a green zone overlaps with an enterprise zone in the State, these revenue losses may have otherwise occured. Green business qualifying for existing DBED financial assistance have no impact on expenditures overall.

Local Fiscal Effect: Property tax revenues in counties and municipalities in which a zone is designated will decrease as a result of the bill. Under the assumptions above, local property tax revenues may decrease by $750,000 in fiscal 2014, $870,000 in fiscal 2015, and by $1.0 million in fiscal 2016. Local highway user revenues distributed to Baltimore City, counties, and municipalities will decrease as a result of income tax credits claimed against the personal income tax. Local expenditures may increase minimally to administer the program.

Small Business Impact: Small businesses located in an area designated as a green zone under the bill will potentially benefit from decreased property and income tax burdens. Conversely, any small businesses that are competitors of these businesses and do not qualify will be at a competitive disadvantage due to higher relative tax burdens.

Additional Information

Prior Introductions: None.

Cross File: SB 646 (Senator Ramirez, *et al.*) - Budget and Taxation and Finance.

Information Source(s): Comptroller's Office; Database of State Incentives for Renewable Energy; Department of Business and Economic Development; Department of Labor, Licensing, and Regulation; Maryland Energy Administration; Pew Charitable Trusts; State Department of Assessments and Taxation; Department of Legislative Services

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