SB 1022

Department of Legislative Services

2013 Session

FISCAL AND POLICY NOTE

Senate Bill 1022 (Senator Benson)
Budget and Taxation and Finance

Prince George's County - Green Business Zones

This bill creates four green business zones within Prince George's County. Businesses located in the zones that meet certain requirements can qualify for a property tax credit for a portion of the real property improvements made by the business and an income tax credit for a portion of the wages paid to qualifying employees. The green business zones comprise the municipalities of Capitol Heights, Fairmount Heights, Glenarden, and Seat Pleasant.

The bill takes effect July 1, 2013, and applies beginning with tax year 2013. The bill terminates June 30, 2028.

Fiscal Summary

State Effect: Potential significant general fund expenditure increase beginning in FY 2016 for reimbursement of local property tax credits. The amount of the expenditure increase depends on the number of qualifying businesses and the amount of real property improvements and cannot be reliably estimated. General fund expenditures increase by $31,000 in FY 2014 for one-time tax form changes at the Comptroller's Office. Potential significant decrease in general fund, Transportation Trust Fund (TTF), and Higher Education Investment Fund (HEIF) revenues beginning in FY 2014 due to credits claimed against the income tax. **This bill establishes a mandated appropriation beginning in FY 2016.**

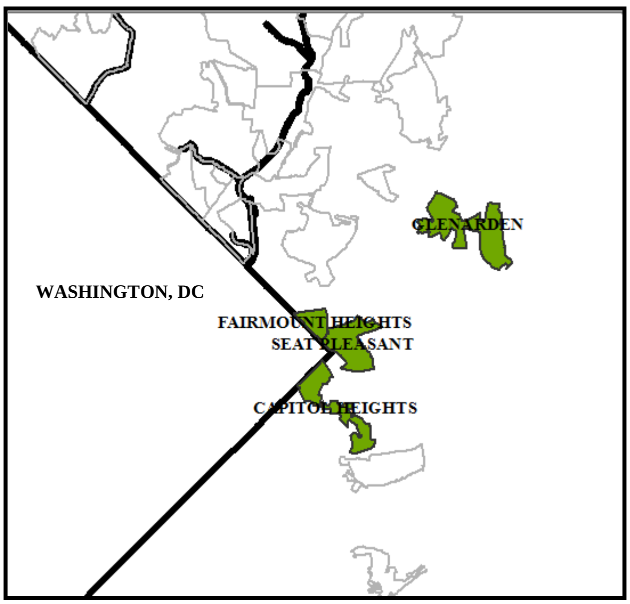
Local Effect: Property tax revenues in Prince George's County and the municipalities of Capitol Heights, Fairmount Heights, Glenarden, and Seat Pleasant may decrease as a result of the bill. Local highway user revenues distributed to Baltimore City, counties, and municipalities may decrease as a result of income tax credits claimed against the corporate income tax. Local expenditures may increase minimally to administer the program. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: Qualified green businesses located in a green business zone can qualify for a local property tax credit for capital improvements and State income tax credits for hiring eligible employees. The eligible green business zones are shown below in **Exhibit 1**.

Exhibit 1
Eligible Green Business Zones



Source: Department of Legislative Services, Department of Information Technology

Program Eligibility

The tax credits are available to green businesses that meet the requirements of the bill and establish or expand existing operations within the zone from July 1, 2013, through June 30, 2018. The bill states that the 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 engaged primarily 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 existing enterprise zone property or income tax credit, respectively.

Property Tax Credit

The bill creates a property tax credit for green businesses located within the green business zones. 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 is required to reimburse local governments for one-half of the cost of the property tax credit.

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 July 1, 2013, or the date the business located in the green zone, 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

The Secretary of Business and Economic Development is required to designate a nonprofit organization to develop job training, internship, and apprenticeship program standards that a green business must meet before receiving incentives. Prince George's County and each municipality are required to certify to the State Department of Assessments and Taxation (SDAT) eligibility for the property tax credit. 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 30 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. About 77,500 acres of the State have been designated as an enterprise zone, including the Prince George's County enterprise zone. According to Prince George's County, this zone comprises about 10,000 acres of commercially zoned land in Prince George's County.

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 2013, 878 businesses will claim property tax credits related to a total of $3.0 billion in capital investments, an average of $3.4 million of investment per business. SDAT will reimburse local governments $18.8 million in fiscal 2013.

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 (JCT) 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 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 Energy Portfolio Standard:* Requires that renewable energy must comprise a specified minimum percentage 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 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 in 1971 to fund electric power plant site evaluation and acquisition and research on environmental and land use consideration associated with power plants.

State Fiscal Effect: The bill creates two tax credits for green businesses in the green business zones created in Prince George's County. Each of the impacts is discussed below.

Property Tax Reimbursement Appropriations

The bill requires that, as provided in the State budget, the State reimburse Prince George's County and each eligible municipality 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 2016. The amount of reimbursement will depend on 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 existing enterprise zone property tax credit. Property tax reimbursement expenditures under the bill might have otherwise been incurred under the enterprise zone program reimbursement to the extent the zones overlap. However, the specified green business zones in the bill do not largely overlap with current enterprise zones.

Administrative Costs

The Comptroller's Office reports that it will incur one-time expenditures of $30,960 in fiscal 2014 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. 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 2013. As a result, general fund, TTF, and HEIF revenues may decrease significantly beginning in fiscal 2014. Given that a green business may not claim both the existing enterprise zone wage income tax credit and the income tax credit proposed by the bill, these revenue losses may have been otherwise realized under the enterprise zone program.

Local Fiscal Effect: Property tax revenues in Prince George's County and the municipalities of Capitol Heights, Fairmount Heights, Glenarden, and Seat Pleasant may decrease as a result of the bill. The amount of any decrease cannot be reliably estimated and depends on the number of qualifying businesses and amount of qualifying property improvements. Part of this revenue loss may have otherwise occurred due to a green business claiming the existing enterprise zone property tax credit. Local highway user revenues distributed to Baltimore City, counties, and municipalities may decrease as a result of income tax credits claimed against the corporate income tax.

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

Additional Information

Prior Introductions: A similar bill, HB 1056 of 2011, was withdrawn without a hearing in the House Ways and Means Committee.

Cross File: None.

Information Source(s): Prince George's County; Department of Business and Economic Development; Comptroller's Office; Department of Labor, Licensing, and Regulation; Department of Information Technology; Department of Legislative Services

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Analysis by: Stephen M. Ross

Direct Inquiries to:
(410) 946-5510
(301) 970-5510