SB 615

Department of Legislative Services

Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 615 (Senator Klausmeier, *et al.*)
Budget and Taxation

Economic Development - Job Creation Incentive Tax Credit

This bill creates a tax credit against the State income tax for employers who hire qualified individuals. The amount of credits that the Department of Business and Economic Development (DBED) can award each year cannot exceed the amount of money appropriated to a reserve fund established by the bill.

The bill takes effect July 1, 2013, and applies to tax year 2013 and beyond.

Fiscal Summary

State Effect: General fund expenditures may increase by $10.0 million annually beginning in FY 2014 due to appropriations to the tax credit reserve fund established by the bill. Administrative costs increase by $190,100 in FY 2014 and by $98,100 in FY 2018. Transportation Trust Fund (TTF) and Higher Education Investment Fund (HEIF) revenues may decrease beginning in FY 2014.

($ in millions)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
SF Revenue	(-)	(-)	(-)	(-)	(-)
GF Expenditure	$10.2	$10.1	$10.1	$10.1	$10.1
Net Effect	($10.2)	($10.1)	($10.1)	($10.1)	($10.1)

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

Local Effect: Local highway user revenues distributed from TTF will decrease as a result of credits claimed against the corporate income tax. Local expenditures are not affected.

Small Business Effect: Any small business claiming the credit may benefit. The overall impact, however, is expected to be minimal.

Analysis

Bill Summary: The bill establishes a Job Creation Incentive Tax Credit Reserve Fund. The total amount of tax credit certificates issued by DBED in each fiscal year cannot exceed the amount appropriated to the reserve fund in the State budget. The bill requires the Governor to appropriate $10.0 million to the reserve fund in fiscal 2015 and 2016. Any amount of money in the fund that is not expended may be issued in the next application period. DBED is required to allow employers to apply for credits three times in each fiscal year. In the first and second application periods, 30% of the total credits available are reserved for manufacturing jobs, as defined by the bill.

Qualified employers include (1) persons conducting a trade or business in the State; or (2) nonprofit organizations. A qualified position is: (1) full-time and of indefinite duration; (2) located in the State; and (3) newly created as a result of the establishment or expansion of a business in the State and pays at least 150% of the federal minimum wage. To be eligible for the credit, a business must "establish or expand" a business in the State.

The credit may not be claimed if a job is the result of (1) the shift of an employment function within the entity's operations within the State; (2) a change in business ownership; (3) a business consolidation or restructuring, if the position is not a "net new job"; (4) a contractual shift from existing businesses; or (5) the job is filled for less than 12 months.

The bill establishes the tax credit application and certification process and establishes procedures for apportioning the credit among tax years. The income tax credit is a four-year credit based on a portion of the qualifying wages paid to an eligible employee by the employer. In the first year, the credit is equal to 4.75% multiplied by 80% of the wages paid to the eligible employee. In successive credit years, the percentage of wages eligible for the credit decreases by 20% in each year and equals 20% in the fourth and final credit year. If the credit amount exceeds the tax liability in each year, the taxpayer can carry forward the credit to successive tax years until the full amount of the credit is claimed. If the amount of credits applied for in a fiscal year exceeds the total amount of credits available, the amount approved for each credit is reduced by a proportional amount of the excess.

DBED is required to (1) approve tax credit applications; (2) adopt regulations in consultation with the Comptroller to implement the credit; and (3) submit a report to the

Governor and the General Assembly detailing specified information about the tax credit by December 31 of each year.

Current Law: Numerous federal and State tax credits are designed to promote employment. In addition to these State tax credits, businesses can typically deduct employee compensation costs, which typically lowers federal and State income tax liability.

Businesses that Create New Jobs Credit

Businesses located in Maryland that create new positions and establish or expand business facilities in the State may be entitled to a tax credit. To be eligible for the tax credit, businesses must first have been granted a property tax credit by a local government for creating the new jobs. The business must create at least 25 new positions as part of the new or expanded business facility. An enhanced credit is available if certain conditions are met and the program provides for separate calculation of the credit for businesses located in Montgomery County.

Job Creation Tax Credit

Businesses that expand or establish a facility in Maryland resulting in the creation of at least 60 new jobs within a two-year period may be eligible to claim the job creation tax credit. The new jobs must be full-time, permanent, filled, located in Maryland, and pay at least 150% of the federal minimum wage. The threshold is lowered to 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 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. 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 are located in a “distressed” Maryland county, may be entitled to a tax credit for costs related to the new or expanded facility. 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.

An expanded credit is available if the created positions are paid 250% or more of the minimum wage.

Maryland Disability Employment Tax Credit

Employers who hire a qualified individual with disabilities can 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. The program terminates June 30, 2013.

Enterprise Zone Credit

Businesses located in a Maryland enterprise zone may be entitled to an income tax credit for wages paid to newly hired employees in addition to a property tax credit. The local enterprise zone administrator must certify the business to qualify for the credit. The credits are based on the wages paid during the taxable year to each qualified employee. The business must hire at least one employee who (1) is a new employee or an employee rehired after being laid off for more than one year; (2) worked for the business for at least 35 hours per week for six months or more; (3) earns at least 150% of the federal minimum wage; (4) spends at least 50% of the workday either in the enterprise zone or on activities of the business resulting from its location in the enterprise zone or focus area; (5) is hired after the date the enterprise zone was created or the date the business located in the enterprise zone or focus area, whichever is later; and (6) is not hired to replace an individual employed by the business within the last four years.

State Fiscal Effect:

Appropriations to the Reserve Fund

The bill requires the Governor to appropriate $10.0 million to the reserve fund in fiscal 2015 and 2016 only. Assuming the program is level funded and that the Governor provides funds for the credit beginning in fiscal 2014, general fund expenditures will increase by $10.0 million annually beginning in fiscal 2014. To the extent that the Governor provides less or no money to the reserve fund, the increase in general fund expenditures will be less. However, there is no limit on the amount that can be appropriated to the reserve fund.

Administrative Expenses

The bill requires DBED to administer the tax credit and DBED indicates it will need one tax credit program administrator. General fund expenditures will increase by an estimated $86,700 in fiscal 2014, which reflects the bill's July 1, 2013 effective date. This estimate includes a salary, fringe benefits, and ongoing operating expenses.

The Comptroller's Office reports that it will incur a one-time expenditure increase of $103,400 in fiscal 2014 to add the credit to the personal and corporate income tax forms. This amount includes data processing changes to the SMART income tax return processing and imaging systems and systems testing.

Position	1
Salary and Fringe Benefits	$81,555
Operating Expenses	5,190
DBED Expenditures	**$86,745**
Comptroller Expenditures	**103,400**
Total FY 2014 Expenditures	**$190,145**

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Revenue Impacts

Within 15 days after the end of each fiscal year, DBED is required to notify the Comptroller of the total amount of credit certificates that were issued during the fiscal year. Upon this notification, the Comptroller is required to transfer from the reserve fund to the general fund the total amounts stated in the credit certificates that were issued during the fiscal year. Taxpayers claiming the credit are required to add back the amount of the credit claimed to Maryland adjusted gross income or Maryland modified income; net revenue losses will be less than the total amount appropriated to the reserve fund. In addition, a portion of corporate income tax revenues are distributed to the TTF and HEIF. As a result, general fund revenues may increase while TTF and HEIF revenues may decrease.

For illustrative purposes only, if one-half of $10.0 million in credits appropriated to the reserve fund is claimed against the corporate income tax and the other half is claimed against the personal income tax, TTF revenues will decrease by $827,000 and HEIF revenues will decrease by $300,000, and as a result the credit will have a net general fund impact of $8.9 million.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Business and Economic Development, Comptroller's Office, Department of Legislative Services

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ncs/jrb

Analysis by: Robert J. Rehrmann

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