HB 1347

Department of Legislative Services

Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 1347 (Delegate McHale)
Ways and Means

Build Maryland Tax Credit Act

This bill creates a tax credit against the State income tax for qualified commercial real estate investment expenses incurred within a priority funding area (PFA). 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 $4.0 million 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. General fund revenues may increase beginning in FY 2014 as a result of the add-back and transfer provisions contained in the bill. 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
GF Revenue	-	-	-	-	-
SF Revenue	(-)	(-)	(-)	(-)	(-)
GF Expenditure	$4.2	$4.1	$4.1	$4.1	$4.1
Net Effect	($4.2)	($4.1)	($4.1)	($4.1)	($4.1)

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: Small businesses in priority funding areas could be positively impacted to the extent those businesses incur qualified expenses and thus become eligible for the tax credit. Conversely, any small businesses that are competitors of these businesses and do not qualify would be at a competitive disadvantage due to higher relative tax burdens.

Analysis

Bill Summary: The bill establishes an Infrastructure Investment Income 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 $4.0 million to the reserve fund in fiscal 2015 and 2016. Any amount of money in the fund that is not expended in the fiscal year must be rolled over into the next fiscal year.

Corporations and individuals can claim a refundable credit for the costs incurred related to the development of commercial real estate, not including fixtures, within a PFA. The value of the credit is equal to the lesser of (1) 25% of the total depreciation allowable for the eligible investment expenses under the Internal Revenue Code over a five-year period, including the year in which the investment was made; or (2) $25,000. A taxpayer claiming the credit is required to add back the amount of the credit claimed to Maryland adjusted gross income or Maryland modified income.

Businesses seeking the tax credit must apply to DBED for the qualified expenses it intends to make in the tax year; applications are approved on a first-come, first-served basis until the total cap for the year is reached.

DBED is required to (1) approve tax credit applications; and (2) adopt regulations in consultation with the Comptroller to implement the credit and specify costs eligible for the credit.

Current Law/Background:

Priority Funding Areas

The Smart Growth and Neighborhood Conservation Act of 1997 sought to strengthen the State's efforts to control sprawl, enhance land use, and control pollution. This Act capitalized on the influence of State expenditures on economic growth and development by directing State spending to PFAs. The broad purpose of PFAs is to focus State spending to make the most efficient and effective use of existing infrastructure; preserve existing neighborhoods; and preserve Maryland's fields, farms, and open spaces.

The Act established certain areas as PFAs and allowed counties to designate additional areas if they meet minimum criteria. The following areas qualify:

- every municipality, as they existed in 1997;
- areas inside the Washington Beltway and the Baltimore Beltway; and
- areas already designated as enterprise zones, neighborhood revitalization areas, heritage areas and existing industrial land.

Existing Federal and State Programs

DBED promotes economic development within PFAs through several programs:

- *One Maryland Tax Credit*: Certain businesses that establish or expand a business facility in a PFA located in a "distressed" Maryland county may be entitled to a tax credit for costs related to the new or expanded facility. A total of $8.9 million in credits were claimed in tax year 2008.

- *Maryland Economic Development Assistance Authority and Fund (MEDAAF):* MEDAAF provides below-market, fixed-rate financing in the form of loans, grants, conditional loans, conditional grants, and direct investment to local jurisdictions and businesses, particularly in growth industries and PFAs. The proposed fiscal 2014 State budget provides $15.0 million in program funding.

- *Job Creation Tax Credit:* The job creation tax credit is available to a business that expands or establishes a facility in Maryland that results in the creation of new jobs. A business locating in a PFA can qualify for an enhanced credit. A total of $362,000 in credits were claimed in tax year 2008.

Other State tax incentives promote real estate investment in other designated areas of the State, some of which overlap with PFAs, including:

- *Enterprise Zone Tax Credits:* Maryland's Enterprise Zone program is a joint effort between the State and local governments to promote capital investments and economic development within areas of the State designated as economically distressed areas. A business located within an enterprise zone that makes capital investments or hires employees is eligible for local property tax credits and State income tax credits for a period of 10 years. The proposed fiscal 2014 State budget includes $14.5 million to reimburse local governments for one-half of the property tax credits awarded. In addition, businesses claimed a total of $640,000 in Enterprise Zone income tax credits in tax year 2008.

- *Maryland Sustainable Communities Tax Credit:* State income tax credits are available based on a percentage of the qualified capital costs expended in the rehabilitation of certain historic and nonhistoric structures in designated sustainable communities. The proposed fiscal 2014 State budget provides $10.0 million in program funding.

In addition, numerous federal tax incentives are provided for businesses to make capital investments.

State Fiscal Effect:

Appropriations to the Reserve Fund

The bill requires the Governor to appropriate $4.0 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 $4.0 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 $4.0 million is appropriated to the reserve fund in fiscal 2014 and 80% of all credits are claimed against the personal income tax and the remaining amount is claimed against the corporate income tax, general fund revenues may increase by $391,500. TTF revenues will decrease by $121,400 and HEIF revenues will decrease by $44,000.

Additional Information

Prior Introductions: None.

Cross File: SB 138 (Senators Manno and Mathias) - Budget and Taxation.

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

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mc/jrb

Analysis by: Robert J. Rehrmann

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