Department of Legislative Services

Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 787 (Senator Ramirez, *et al.*)
Budget and Taxation and Finance

Economic Development - Green Business Incentive Zones

This bill creates a Green Business Incentive Zones Program. Businesses located in a 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, 2014, and applies beginning with tax year 2014.

Fiscal Summary

State Effect: Potential decrease in general fund, Transportation Trust Fund (TTF), and Higher Education Investment Fund (HEIF) revenues beginning in FY 2015 due to credits claimed against the corporate income tax. General fund revenues may decrease by up to $100,000 annually beginning in FY 2015 due to eligible businesses claiming income tax credits. Potential significant general fund expenditure increase beginning in FY 2017 for reimbursement of local property tax credits. General fund expenditures increase by $107,000 in FY 2015 for DBED staff and for one-time tax form changes and computer programming modifications at the Comptroller's Office. Under one set of circumstances, general fund expenditures may increase by $1.1 million in FY 2017, increasing to $1.4 million in FY 2019. **This bill establishes a mandated appropriation beginning in FY 2017.**

(in dollars)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
GF Revenue	($100,000)	($100,000)	($100,000)	($100,000)	($100,000)
SF Revenue	(-)	(-)	(-)	(-)	(-)
GF Expenditure	$107,000	$177,800	$1,109,200	$1,272,300	$1,435,800
Net Effect	($207,000)	($277,800)	($1,209,200)	($1,372,300)	($1,535,800)

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 decrease as a result of the bill. Under the assumptions above, local property tax revenues may decrease by $927,700 in FY 2017, $1.1 million in FY 2018, and by $1.2 million in FY 2019. Local highway user revenues distributed to Baltimore City, counties, and municipalities decrease as a result of income tax credits claimed against the corporate 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 Zones program within DBED. "Green businesses" located in a zone 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. "Green business" means a business entity that is primarily engaged in researching, designing, manufacturing, producing, distributing, or deploying technologies, materials, equipment, or services related to:

- renewable energy, energy storage, or energy efficiency and conservation;
- stormwater management or water conservation;
- sustainable agriculture, including urban farming and aquaculture;
- green building construction;
- recycling or composting; or
- other measures, products, or processes that contribute directly or indirectly to environmental sustainability.

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 the 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.

The bill specifies the circumstances under which the credits can be claimed when a business is located (1) in a Base Realignment and Closure (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 a public or community water and sewer system or planned to be served 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. A map of current priority funding areas in the State can be found in **Appendix A**. 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 also 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 not be claimed for property used for residential purposes. 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 zone or the 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 to the Governor and the General Assembly their findings by December 15 each year.

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

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. 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 71,000 acres of the State have been designated as an enterprise zone.

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 and will reimburse local governments $13.9 million in fiscal 2014, bringing total reimbursements since fiscal 2001 to $131.2 million.

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. Although the amount of income tax credits claimed is relatively small compared to the property tax credit, a total of $9.9 million in income tax credits have been claimed since tax year 2000.

Additional information on the Maryland Enterprise Zone Program, compiled as part of the Tax Credit Evaluation Act of 2012, can be found in the Department of Legislative Services' *draft* report on the program at: http://mgaleg.maryland.gov/Pubs/BudgetFiscal/2013-Evaluation-Enterprise-Zone-Tax-Credit-DRAFT.pdf.

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

State Renewable Energy Programs

Several State programs promote renewable energy production and energy efficiency and conservation, including:

- *Renewable Energy Portfolio Standard:* The standard requires that renewable energy comprise a specified minimum percentage of Maryland's total electricity supply in each year.
- *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.

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 Credit Reimbursements

The bill requires that, as provided in the State budget, the State reimburse counties and municipalities 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 2017. The amount of reimbursements will depend on the number of zones created, 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 tax credit. To the extent the zones overlap, property tax credit reimbursement expenditures may be mitigated.

If DBED designates the maximum six zones in 2014 and one zone in each successive year, general fund expenditures for property tax reimbursements could increase by about \$927,700 in fiscal 2017, increasing to \$1.1 million in fiscal 2018 and \$1.2 million in fiscal 2019. This estimate assumes an average of five businesses claim the property tax credit in each zone and real property improvements of \$5.0 million on average. This estimate assumes an average property tax rate of \$1.54, which is consistent with the weighted average property tax rate in fiscal 2014 for property tax credits claimed under the enterprise zone program.

General fund expenditures may be significantly different than estimated, and they could increase significantly beyond fiscal 2019 if the program follows a cost progression similar to that of the enterprise zone property tax credit.

Administrative Costs

The Comptroller's Office reports that it will incur one-time expenditures of \$30,960 in fiscal 2015 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 requires one administrator to oversee the program beginning in fiscal 2015. SDAT requires one administrator to process property tax reimbursements beginning in fiscal 2016. General fund expenditures for DBED increase by $76,000 in fiscal 2015, which reflects a 90-day start-up delay. This estimate reflects the cost of hiring one administrator to implement and oversee the program. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses. General fund expenditures for SDAT increase by $79,700 in fiscal 2016. This estimate reflects the cost of hiring one administrator to *process* property tax reimbursements (although the reimbursements themselves are not budgeted until fiscal 2017). It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

	DBED FY 2015	**SDAT FY 2016**
Position	1	1
Salary and Fringe Benefits	$71,221	$74,708
Operating Expenses	4,805	4,956
Total State Expenditures	**$76,026**	**$79,664**

Future year expenditures for DBED and SDAT reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

DLLR 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 2014. As a result, general fund, TTF, and HEIF revenues may decrease beginning in fiscal 2015. 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, revenue losses may be mitigated. Green businesses 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 $927,700 in fiscal 2017, $1.1 million in fiscal 2018, and $1.2 million in fiscal 2019. Local highway user revenues distributed to Baltimore City, counties, and municipalities will decrease as a result of income tax credits claimed against the corporate income tax. Local expenditures may increase minimally to administer the program.

Small Business Impact: Small businesses located in an area designated as a green business 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: HB 795 of 2011, a similar bill, received a hearing from the House Ways and Means Committee. Its cross file, SB 646, received a hearing from the Senate Budget and Taxation Committee. No further action was taken on either bill.

Cross File: HB 473 (Delegate Summers, *et al.*) - Ways and Means and Economic Matters.

Information Source(s): Comptroller's Office; Department of Business and Economic Development; State Department of Assessments and Taxation; Department of Natural Resources; Department of Labor, Licensing, and Regulation; Maryland Department of Planning; Department of Agriculture; Maryland Department of the Environment; Department of General Services; Maryland Association of Counties; Dorchester and Montgomery counties; Department of Legislative Services

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mc/rhh

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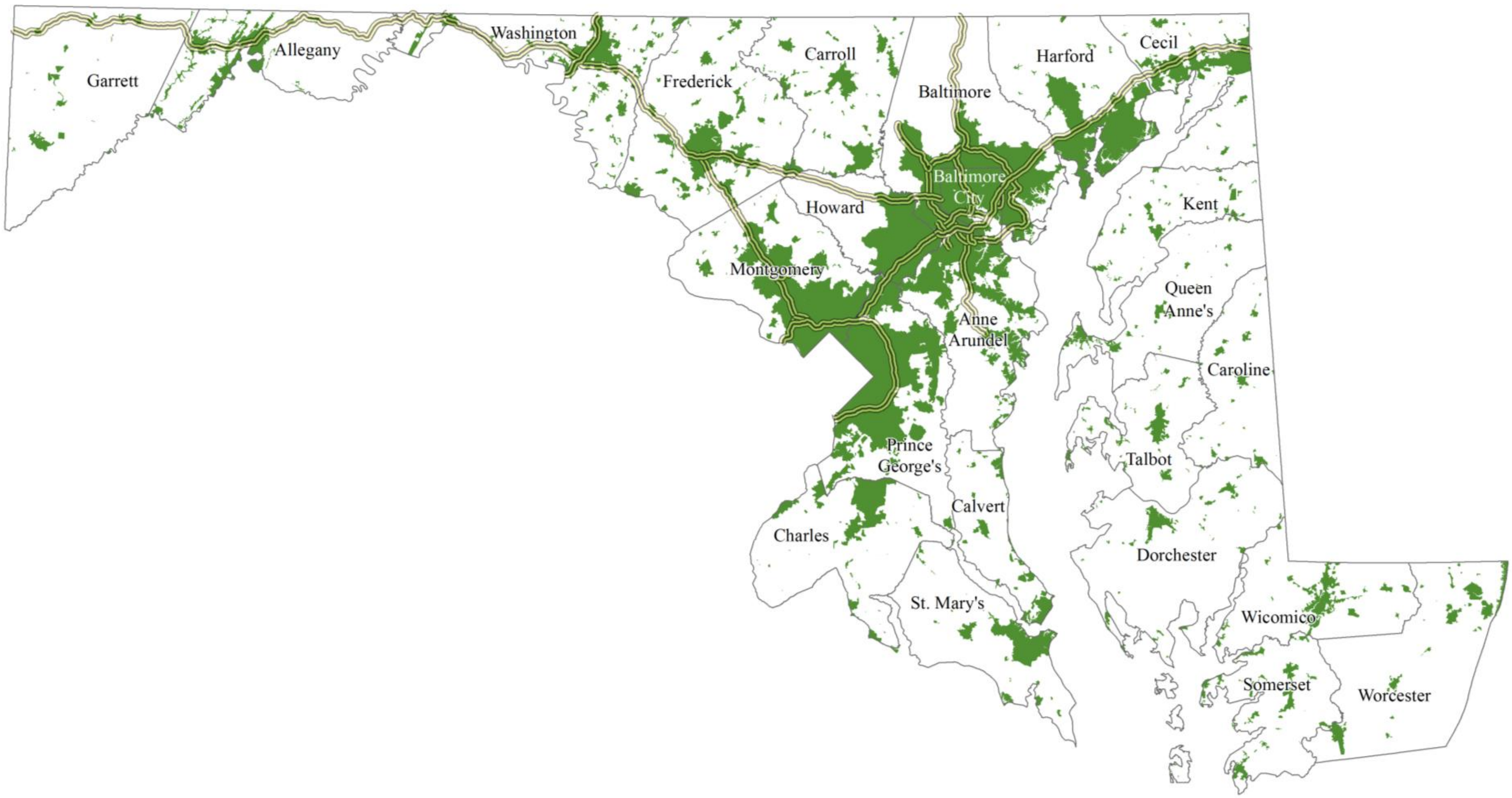
Appendix A
Priority Funding Areas



Note: Shaded area indicates a Priority Funding Area.
Source: Maryland Department of Planning; Department of Legislative Services