HB 820

Department of Legislative Services

Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 820 (Delegate Lafferty)
Ways and Means

One Maryland Economic Development Tax Credit - Distressed Municipal Corporations

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This bill expands the applicability of the One Maryland economic development tax credit to include a municipality that, if it were a county, would meet the qualifications of a "qualified distressed county."

The bill takes effect July 1, 2015.

Fiscal Summary

State Effect: General and special fund revenues decrease in total by $2.6 million in FY 2017, escalating to $18.0 million in FY 2020, under the assumptions discussed below. Future year revenues continue to decline significantly beyond FY 2020 as tax credits continue to be applied by qualified businesses. The Department of Business and Economic Development (DBED) and the Comptroller can likely handle the bill's requirements with existing budgeted resources.

($ in millions)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
GF Revenue	$0	($2.2)	($6.5)	($10.9)	($15.2)
SF Revenue	$0	($.4)	($1.2)	($2.0)	($2.8)
Expenditure	0	0	0	0	0
Net Effect	$.0	($2.6)	($7.7)	($12.9)	($18.0)

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

Local Effect: Local highway user revenues (LHURs) decrease by $27,000 in FY 2017, escalating to $189,000 in FY 2020, from additional One Maryland credits claimed against the corporate income tax (CIT). Expenditures are not affected.

Small Business Effect: Meaningful.

Analysis

Current Law:

One Maryland Program

Under the One Maryland program, businesses that establish or expand a business facility in a priority funding area (PFA), and are located in a qualified distressed county, may be entitled to tax credits for costs related to the new or expanded facility.

To be eligible for the One Maryland tax credit, a business must establish or expand a business facility that is primarily engaged in one or more of the following activities: (1) manufacturing or mining; (2) transportation or communications; (3) filmmaking, a resort business, or a recreational business; (4) agriculture, forestry, or fishing; (5) research, development, or testing; (6) biotechnology; (7) computer programming, information technology, or other computer-related services; (8) central services for a business entity engaged in financial services, real estate services, or insurance services; (9) the operation of a public utility; (10) warehousing; or (11) other business services. In addition to these specific industries, a qualifying activity includes either the operation of central administrative offices or a company headquarters (other than the headquarters of a professional sports organization).

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 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. Qualifying costs and expenses include those incurred with the acquisition, construction, rehabilitation, installation, and equipping of an eligible project. Eligible costs include land acquisition, performance and contract bonds, insurance, architectural and engineering services, environmental mitigation, and utility installation. The business must expend at least $500,000 in project costs.

Credits may be carried forward up to 14 successive tax years. Generally, a business entity must maintain at least 25 qualified employees at the project to carry over a tax credit from the preceding year. A prorated credit may be taken if the number of qualified positions filled by the business entity falls below 25, but does not fall below 10, and the business entity has maintained at least 25 qualified positions for at least 5 years.

Geographic Eligibility

A project must be in a qualified distressed county and in a PFA to qualify for the One Maryland program. To qualify as a distressed county, a county must have:

- an average unemployment rate that exceeded the State's average during the preceding 24-month period by either 2 percentage points or 150%; or
- a per capita personal income that may not exceed 67% of the State's average during the preceding 24-month period.

A distressed county also includes any county that no longer meets the unemployment and personal income criteria but has met at least one of the criteria at some point in the preceding 24-month period.

Background: There are 119 municipalities in counties that are not already a qualified distressed county. The extent to which the municipalities overlap with one or more PFAs is unknown, although it is likely that the majority have at least some overlap with a PFA.

The county-level income and employment data for the current One Maryland program is taken from the U.S. Bureau of Economic Analysis. That data does not go down to the municipality level. Income and unemployment data for some municipalities is available from the American Community Survey conducted by the U.S. Census Bureau, but the smaller municipalities are only surveyed every three or five years.

Economic Development Tax Incentives

There are numerous federal, State, and local programs that aim to increase employment or economic development within distressed areas or similar areas, including the One Maryland economic development tax credit, Enterprise Zone tax credit, Job Creation tax credit, Base Realignment and Closure Revitalization and Incentive Zone Program, Brownfields tax credit, Community Investment tax credit, and Sustainable Communities tax credit.

One Maryland Economic Development Tax Credit

In response to concerns about the impacts of tax credits, Chapters 568 and 569 of 2012 established the Tax Credit Evaluation Act, a legislative process for evaluating certain tax credits. The evaluation process is conducted by a legislative evaluation committee. The committee was required to review and evaluate the One Maryland economic development tax credit by July 1, 2014. The final report on the credit was completed in August 2014 and can be found here.

Chapter 303 of 1999 established the One Maryland economic development tax credit, designed to assist in paying for both project expansion and start-up costs for certain businesses that add at least 25 qualified employees in distressed counties. The One Maryland tax credit is a high-value, low-utilization credit compared to other business tax credits. As of August 2014, DBED had certified a total of $197.4 million in One Maryland tax credits; however, only about one-third of this amount had been claimed at that time, thus creating a large pipeline of unclaimed credits. Companies generally have 15 years to claim the entire amount of the credit; therefore, *existing* projects will continue to decrease State revenues by up to $136 million through tax year 2025 (fiscal 2026). This revenue loss is before any revenue losses that will result from new projects going forward.

Baltimore City and Allegany, Caroline, Dorchester, Somerset, Washington, and Worcester counties are currently considered qualified distressed counties.

State Revenues: Under the assumptions discussed below, general and special fund revenues decrease in total by $2.6 million in fiscal 2017, $7.7 million in fiscal 2018, $12.9 million in fiscal 2019, and $18.0 million in fiscal 2020. Future year revenues continue to decline significantly beyond fiscal 2020 as tax credits continue to be applied by qualified businesses. The effect on general and special fund revenues is shown in **Exhibit 1**.

Exhibit 1
General and Special Fund Revenue Impacts
Fiscal 2016-2020
($ in Millions)

	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
General Fund	$0.0	-$2.2	-$6.5	-$10.9	-$15.2
HEIF	0.0	-0.1	-0.3	-0.6	-0.8
TTF	0.0	-0.3	-0.8	-1.4	-2.0
Total	**$0.0**	**-$2.6**	**-$7.7**	**-$12.9**	**-$18.0**

Note: Numbers may not sum to total due to rounding.

HEIF = Higher Education Investment Fund
TTF = Transportation Trust Fund

Source: Department of Legislative Services

The average credit awarded under the One Maryland program is $3.6 million. About one-third of all projects have been awarded the maximum $5.5 million credit. As discussed above, there are 119 municipalities in counties that are not already located in a qualified distressed county; a number of municipalities likely qualify for the One Maryland program.

This estimate assumes (1) 5 projects are certified in 2016 and 10 are certified annually thereafter for the average program credit of $3.6 million; (2) the full amount of the credit is applied evenly over seven tax years; and (3) 75% of the credits are applied to CIT and 25% to the personal income tax. Any change in these assumptions alters the timing and amount of the revenue losses.

DBED and the Comptroller can likely handle the bill's requirements with existing budgeted resources. To the extent that demand for the program exceeds either agency's ability to absorb the bill's administrative requirements, general fund expenditures increase for additional staff.

Local Revenues: Local governments receive a portion of Transportation Trust Fund revenues as LHURs for the purpose of constructing and maintaining local roads. Therefore, LHURs decrease by $27,000 in fiscal 2017, escalating to $189,000 by fiscal 2020, as a result of additional One Maryland credits being claimed against the CIT. Expenditures are not affected.

Small Business Effect: The bill offers a high-value tax credit to businesses that would otherwise be ineligible to receive it. These businesses benefit directly from up to a $5.5 million tax credit.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Business and Economic Development, Maryland State Archives, Maryland Municipal League, Department of Legislative Services

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