

Department of Legislative Services
2016 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 1107

(Senator Manno, *et al.*)

Budget and Taxation

Ways and Means

Biotechnology Investment Tax Credit - Qualified Maryland Biotechnology Company - Definition

This bill expands eligibility for the biotechnology investment tax credit by specifying that a biotechnology company is a company that has been in active business for a maximum of (1) 12 years; (2) 12 years from the date the company first received a qualified investment under the program; or (3) 15 years if the Department of Commerce (DOC) determines that the company needs additional time to complete the process of regulatory approval.

The bill takes effect June 1, 2016, and applies to all initial tax credit certificates issued after June 30, 2016.

Fiscal Summary

State Effect: Allowing additional biotechnology companies to qualify for tax credits will not alter the fiscal impact of the program beyond that provided under current law.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law: Chapter 99 of 2005 established the biotechnology investment tax credit, which offers a refundable tax credit for investments in qualified biotechnology companies. DOC administers the tax credit application, approval, and certification process and is required to submit a report to the Governor and the General Assembly detailing specified information about the tax credit each year. An investor who invests at least \$25,000 in a qualified Maryland biotechnology company (QMBC) can claim a credit equal to 50% of the investment, not to exceed \$250,000. DOC may not certify investments in a single

biotechnology company that total more than 15% of the total appropriations to the reserve fund for that fiscal year. The Governor’s proposed fiscal 2017 budget includes \$12 million in funding for the program.

Under Chapter 99, in order to qualify, a biotechnology company was required to (1) have its headquarters and base of operations in the State; (2) have fewer than 50 full-time employees; (3) have been in active business for no longer than 10 years; and (4) be certified as a biotechnology company by DOC. Chapter 518 of 2008 made several changes to the program, including allowing a company that has been in active business for up to 12 years to qualify if DOC determines that the company required additional time to complete the regulatory approval process. Chapter 349 of 2011 further expanded eligibility by specifying that, for credits in fiscal 2012 and 2013, a biotechnology company could be in active business for up to 15 years. Chapters 75 and 76 of 2013 added an additional exception to the 10-year limitation on operations by generally allowing a company to qualify for tax credits for up to 10 years after the first investment by an investor eligible to receive the tax credit. **Exhibit 1** shows the evolution of QMBC eligibility criteria related to the length of time in active business since the program’s inception and the additional eligibility standard proposed by the bill.

Exhibit 1
Qualified Maryland Biotechnology
Company Operations Criteria

Legislation

Eligibility Standard

Chapter 99 of 2005

In business up to 10 years

Chapter 518 of 2008

In business up to 12 years if DOC determines necessary for regulatory reasons

Chapter 349 of 2011

In business up to 15 years (fiscal 2012 and 2013)

Chapters 75/76 of 2013

In business for up to 10 years from the date the company first received a qualified investment under the program

SB 1107 of 2016

In business up to 12 years
In business up to 15 years if DOC determines necessary for regulatory reasons
In business for up to 12 years from the date the company first received a qualified investment under the program

State Fiscal Effect: While the bill allows additional biotechnology companies to qualify, it will not alter the overall fiscal impact of the tax credit program. It is expected that DOC will award the maximum amount of any credits available in fiscal 2017.

Small Business Impact: Small businesses that would not have qualified for the program under current law will benefit. Given that program funding is limited in each fiscal year and DOC is expected to award the maximum amount of available credits, other small businesses that would have been selected for investments under current law would be negatively impacted.

Additional Information

Prior Introductions: None.

Cross File: HB 1554 (Delegate Vogt, *et al.*) - Rules and Executive Nominations.

Information Source(s): Department of Commerce, Department of Legislative Services

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