

Department of Legislative Services  
Maryland General Assembly  
2016 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 858  
Ways and Means

(Delegate Smith, *et al.*)

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Enterprise Zone Income Tax Credit - Expansion

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This bill expands the definition of “economically disadvantaged individual” to include a qualified ex-felon for purposes of the enterprise zone income tax credit. A qualified ex-felon is an individual who has been convicted of a felony under any federal or state law and is hired within one year of being convicted or released from prison. A qualified ex-felon does not include an individual (1) who is the spouse of, or has a specified relationship to, a person who controls, directly or indirectly, more than 50% of the ownership of the business entity that employs the ex-felon; (2) who is required to register under Title 11, Subtitle 7 of the Criminal Procedure Article; or (3) that is convicted of a violent crime or other specified offense.

The bill takes effect July 1, 2016, and applies to tax year 2016 and beyond.

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Fiscal Summary

**State Effect:** None. The bill generally codifies existing practice, as discussed below.

**Local Effect:** None.

**Small Business Effect:** None.

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Analysis

**Current Law:** There are two types of income tax credits for firms located within an enterprise zone: a general income tax credit and a larger income tax credit for hiring economically disadvantaged individuals. As shown in **Exhibit 1**, the general income tax credit is a one-time \$1,000 credit per new employee filling a newly created position,

or \$1,500 for each qualified new employee in a focus area. For economically disadvantaged individuals, the credit increases to a total of \$6,000 per new employee, or \$9,000 per new employee in a focus area. The tax credit for hiring economically disadvantaged individuals is claimed over a three-year period. A qualified business entity within a Regional Institution Strategic Enterprise zone may also claim enterprise zone income tax credits.

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**Exhibit 1**  
**Enterprise Zone and Focus Area**  
**Income Tax Credit**

**Enterprise Zone**

Regular employee	\$1,000 per employee (one-time)
Economically disadvantaged individual	\$6,000 per employee (over three years)

**Focus Area**

Regular employee	\$1,500 per employee (one-time)
Economically disadvantaged individual	\$9,000 per employee (over three years)

Source: Department of Commerce

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Businesses located in an enterprise zone must be certified by the local enterprise zone administrator in order to be eligible to receive the income tax credit (including the focus area credit). To qualify for the credit, businesses must hire at least one employee who (1) is hired after the business was located in the enterprise zone or after the enterprise zone was designated; (2) is employed by the business for at least 35 hours per week for 6 months (or 12 months in a focus area) before or during the taxable year in which the credit is taken; (3) spends at least 50% of the workday either in the enterprise zone or on an activity related to the enterprise zone; (4) is hired to fill a new position (*i.e.*, the firm's number of new full-time positions must increase by the number of credits taken); and (5) earns at least 150% of the federal minimum wage.

Businesses claiming the credit for hiring an economically disadvantaged individual must obtain certification from the Department of Labor, Licensing, and Regulation (DLLR). An economically disadvantaged individual is an individual who was both unemployed for at least 30 consecutive days and qualified to participate in certain training activities under the federal Workforce Investment Act or its successor. In the absence of an applicable federal act, an economically disadvantaged individual must meet the requirements set by DLLR. Once certified, a business may claim the income tax credit.

**Background:** In fiscal 2015, 9,129 individuals who had been convicted of a felony were discharged from Department of Public Safety and Correctional Services facilities.

DLLR certified 78 employees as being economically disadvantaged individuals in 2015.

### *Enterprise Zone Tax Credit Program*

The Enterprise Zone Tax Credit Program, established in 1982, is intended to encourage economic growth within economically distressed areas of the State and to increase employment of the chronically unemployed. The Secretary of Commerce may only designate an area as an enterprise zone if it is in a priority funding area and satisfies at least one criterion related to economic distress.

Pursuant to the Tax Credit Evaluation Act of 2012, the Department of Legislative Services [evaluated](#) the enterprise zone tax credit and made several recommendations in a report issued in August 2014. These findings included that enterprise zone tax credits are not effective in creating employment opportunities for enterprise zone residents. While enterprise zone tax credits may incentivize some businesses to create additional jobs within enterprise zones, the tax credit is not particularly effective in providing employment to zone residents that are chronically unemployed and/or live in poverty. Additionally, annual claims for the enterprise zone income tax credit have been modest, and administrative burdens associated with the enhanced credit for members of a disadvantaged family may be contributing to low utilization rates.

### *Tax Credits for Qualified Ex-felons*

The State established the Pilot Program for the Long-Term Employment of Qualified Ex-Felons, which terminated on June 30, 2012. Under the program, business entities could receive a fidelity bond for employing a qualified ex-felon and a tax credit for wages paid to a qualified ex-felon employee. Between tax years 2007 and 2011, taxpayers claimed a total of \$76,881 in credits.

The federal Work Opportunity Tax Credit provides an incentive to employers to hire targeted groups of hard-to-employ individuals, including qualified ex-felons. The credit is generally 40% of the first \$6,000 of qualified wages paid to each member of a targeted group during the first year of employment and 25% in the case of wages attributable to individuals meeting only specified minimum employment levels. The credit was recently extended through tax year 2019.

## *Workforce Innovation and Opportunity Act*

The federal Workforce Innovation and Opportunity Act (WIOA) became effective July 1, 2015, and the State has until July 1, 2016, to conform to WIOA. WIOA is designed to help job seekers access the employment, education, training, and support services needed to succeed in the labor market and to match employers with the skilled workers they need to compete in the global economy. Under WIOA, adults and dislocated workers may access career services and training services. WIOA provides for a workforce system that is universally accessible, customer centered, and training that is job driven. WIOA also provides training to increase participants' earning potential and provides assistance to individuals with barriers to employment. Ex-offenders are included in the definition of an individual with a barrier to employment.

**State Fiscal Effect:** The bill does not materially affect State finances because DLLR currently certifies ex-felons as qualifying to be economically disadvantaged individuals. However, under the bill, qualifying ex-felons no longer must be unemployed for at least 30 consecutive days to qualify as an economically disadvantaged individual. This change is not expected to result in more ex-felons qualifying as economically disadvantaged individuals.

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### **Additional Information**

**Prior Introductions:** A similar bill, HB 1047 of 2015, received a hearing in the House Ways and Means Committee, but no further action was taken.

**Cross File:** None.

**Information Source(s):** Department of Commerce; Comptroller's Office; Department of Labor, Licensing, and Regulation; Department of Public Safety and Correctional Services; Department of Legislative Services

**Fiscal Note History:** First Reader - March 2, 2016  
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