

# SENATE BILL 873

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CF HB 1052

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By: **Senator Madaleno (By Request – Tax Credit Evaluation Committee)**

Introduced and read first time: February 3, 2017

Assigned to: Budget and Taxation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Economic Development – Job Creation Tax Credit – Alteration**

3 FOR the purpose of altering the definitions of “qualified position” and “State priority  
4 funding area” for purposes of the job creation tax credit program; altering a  
5 requirement related to the number of positions a person is required to create in order  
6 to be eligible for the tax credit; authorizing the Department of Commerce to require  
7 that certain information be verified by the Department of Labor, Licensing, and  
8 Regulation rather than by an independent auditor; requiring the Department of  
9 Commerce to certify the amount of the tax credit for which a qualified business entity  
10 is eligible; prohibiting the Department of Commerce from certifying tax credits in a  
11 taxable year in excess of a certain amount; altering the manner in which the tax  
12 credit shall be claimed; repealing an authorization allowing the Department of  
13 Commerce to require that certain information be verified by a certain independent  
14 auditor; altering the contents of a certain report that the Department of Commerce  
15 is required to submit; requiring the Maryland Insurance Commissioner to submit a  
16 certain report; making a conforming change; providing for the application of this Act;  
17 and generally relating to the job creation tax credit program.

18 BY repealing and reenacting, without amendments,

19 Article – Economic Development  
20 Section 6–301(a)  
21 Annotated Code of Maryland  
22 (2008 Volume and 2016 Supplement)

23 BY repealing and reenacting, with amendments,

24 Article – Economic Development  
25 Section 6–301(d)(1) and (f), 6–303(b) and (e), 6–304, 6–305(c), 6–307, and 6–309  
26 Annotated Code of Maryland  
27 (2008 Volume and 2016 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
2 That the Laws of Maryland read as follows:

3 **Article – Economic Development**

4 6–301.

5 (a) In this subtitle the following words have the meanings indicated.

6 (d) (1) “Qualified position” means a position that:

7 (i) is full-time and of indefinite duration;

8 (ii) pays at least 150% of the [federal] **STATE** minimum wage;

9 (iii) is located in the State;

10 (iv) is newly created as a result of the establishment or expansion of  
11 a business facility in a single location in the State; and

12 (v) is filled.

13 (f) “State priority funding area” means:

14 (1) a municipal corporation;

15 (2) Baltimore City;

16 (3) a sustainable community, as defined in § 6–301 of the Housing and  
17 Community Development Article;

18 (4) an enterprise zone designated by the Secretary under § 5–704 of this  
19 article;

20 (5) an enterprise zone designated by the United States government under  
21 42 U.S.C. §§ 11501 through 11505;

22 (6) those areas of the State located between Interstate Highway 495 and  
23 the District of Columbia;

24 (7) those areas of the State located between Interstate Highway 695 and  
25 Baltimore City;

26 (8) [no more than one] **ANY** area in a county designated by the county as a  
27 priority funding area under § 5–7B–03(c) of the State Finance and Procurement Article;  
28 and

1 (9) that portion of the Port Land Use Development Zone, as defined in §  
2 6–501 of the Transportation Article, that has been designated as an area appropriate for  
3 growth in a county comprehensive master plan.

4 6–303.

5 (b) To be eligible for a tax credit under this subtitle, a person shall establish or  
6 expand a business facility in the State that:

7 (1) during any 24–month period creates at least:

8 (i) 60 qualified positions;

9 (ii) [30 qualified positions if the aggregate payroll for the qualified  
10 positions is greater than a threshold amount equal to the product of multiplying 60 times  
11 the State’s average annual salary, as determined by the Department; or

12 (iii)] 25 qualified positions if the business facility established or  
13 expanded is located in a State priority funding area; **OR**

14 **(III) 10 QUALIFIED POSITIONS IN A COUNTY WITH A POPULATION**  
15 **UNDER 50,000; and**

16 (2) is primarily engaged in:

17 (i) manufacturing or mining;

18 (ii) transportation or communications;

19 (iii) agriculture, forestry, or fishing;

20 (iv) research, development, or testing;

21 (v) biotechnology;

22 (vi) computer programming, information technology, or other  
23 computer–related services;

24 (vii) central services for a business entity engaged in financial  
25 services, real estate services, or insurance services;

26 (viii) the operation of central administrative offices;

27 (ix) the operation of a company headquarters other than the  
28 headquarters of a professional sports organization;

- 1 (x) the operation of a public utility;
- 2 (xi) warehousing;
- 3 (xii) business services, if the business facility established or expanded  
4 is located in a State priority funding area; or
- 5 (xiii) entertainment, recreation, cultural, or tourism–related activities  
6 in a multi–use facility located within a revitalization area if the facility:
- 7 1. generates a minimum of 1,000 new full–time equivalent  
8 filled positions in a 24–month period; and
- 9 2. is not primarily used by a professional sports franchise or  
10 for gaming.

11 (e) The Department may require that any information provided under subsection  
12 (c) of this section be verified by [an independent auditor that the qualified business entity  
13 selects] **THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION.**

14 6–304.

15 (a) (1) A qualified business entity may claim a tax credit in the amount  
16 determined under this section.

17 (2) **THE DEPARTMENT SHALL CERTIFY THE AMOUNT OF THE TAX**  
18 **CREDIT FOR WHICH A QUALIFIED BUSINESS ENTITY IS ELIGIBLE UNDER THIS**  
19 **SECTION.**

20 (3) **[A] THE** qualified business entity shall submit to the appropriate State  
21 units, with the tax return on which the credit is claimed, certification from the Department  
22 that the business entity has met the requirements of this subtitle and is eligible for the  
23 credit **IN THE AMOUNT CERTIFIED BY THE DEPARTMENT.**

24 (b) (1) Except as provided in this section, the credit earned under this section:

25 (i) for qualified employees working in a facility not located in a  
26 revitalization area, is the lesser of:

27 1. \$1,000 multiplied by the number of qualified employees  
28 employed by the qualified business entity during the credit year; and

29 2. 2.5% of the wages paid by the qualified business entity  
30 during the credit year to the qualified employees; and

1 (ii) for qualified employees working in a facility located in a  
2 revitalization area, is the lesser of:

3 1. \$1,500 multiplied by the number of qualified employees  
4 employed by the qualified business entity during the credit year; and

5 2. 5% of the wages paid by the qualified business entity  
6 during the credit year to the qualified employees.

7 (2) The credit earned by a qualified business entity under this subtitle may  
8 not exceed \$1,000,000 for any credit year.

9 **(3) THE TOTAL AMOUNT OF CREDITS CERTIFIED BY THE**  
10 **DEPARTMENT FOR QUALIFIED BUSINESS ENTITIES IN A TAXABLE YEAR MAY NOT**  
11 **EXCEED \$4,000,000.**

12 (c) (1) [The credit earned under subsection (b) of this section shall be taken  
13 over a 2-year period, with one-half of the credit amount allowed each year beginning with  
14 the credit year.

15 (2)] The same credit cannot be applied more than once against different  
16 taxes by the same taxpayer.

17 [(3)] (2) If the credit allowed under this subtitle exceeds the total tax  
18 otherwise due from a qualified business entity in a taxable year, the qualified business  
19 entity may apply the excess as a credit for succeeding taxable years until the earlier of:

20 (i) the full amount of the excess is used; or

21 (ii) the expiration of the 5th taxable year from the credit year.

22 [(4)] (3) The credit under this subtitle may not be carried back to a  
23 preceding taxable year.

24 6-305.

25 (c) [(1)] During the 3 taxable years after the credit year, a qualified business  
26 entity shall provide any information required by the Department in regulation to verify  
27 that the qualified business entity is not subject to subsection (a) or (b) of this section.

28 [(2) The Department may require that any information provided under this  
29 subsection be verified by an independent auditor that the qualified business entity selects.]

30 6-307.

1           (A) In accordance with § 2.5–109 of this article, the Department shall submit a  
2 report on:

3           (1) [the] EACH business [entities] ENTITY certified as eligible for job  
4 creation tax credits in the preceding [fiscal] TAXABLE year;

5           (2) WHETHER THE CREDITS FOR WHICH THE BUSINESS ENTITY WAS  
6 CERTIFIED RESULTED FROM THE ENTITY'S ESTABLISHMENT, EXPANSION, OR  
7 RELOCATION;

8           (3) WHETHER THE BUSINESS ENTITY HAD A PRESENCE IN THE STATE  
9 BEFORE CLAIMING THE CREDIT;

10           (4) THE TOTAL NUMBER OF EMPLOYEES OF THE BUSINESS ENTITY;  
11 AND

12           (5) THE TOTAL NUMBER OF YEARS THAT THE BUSINESS ENTITY HAS  
13 BEEN IN BUSINESS.

14           (B) IN ACCORDANCE WITH § 2–110 OF THE INSURANCE ARTICLE, THE  
15 MARYLAND INSURANCE COMMISSIONER SHALL SUBMIT A REPORT ON:

16           (1) EACH INSURER CLAIMING THE CREDIT AGAINST THE INSURANCE  
17 PREMIUM TAX UNDER § 6–114 OF THE INSURANCE ARTICLE;

18           (2) THE TOTAL AMOUNT OF CREDITS CLAIMED BY INSURERS UNDER §  
19 6–114 OF THE INSURANCE ARTICLE; AND

20           (3) THE NUMBER OF INSURERS CLAIMING THE CREDIT.

21 6–309.

22           (a) Subject to subsection (b) of this section, this subtitle and the tax credit  
23 authorized under it shall terminate on January 1, 2020.

24           (b) After termination of this subtitle:

25           (1) a business entity may be considered for eligibility for the tax credit  
26 authorized under this subtitle based on positions filled before termination of this subtitle,  
27 provided that the other requirements of the subtitle are satisfied; and

28           (2) tax credits earned [may be allowed ratably over a 2–year period,] may  
29 be carried forward[,] and are subject to recapture in accordance with § 6–305 of this  
30 subtitle.

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
2   1, 2017, and shall be applicable to job creation tax credits certified after December 31, 2017.