Department of Legislative Services

Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 282 (Delegate Lafferty)
Ways and Means

Economic Development - One Maryland Tax Credit - Expansion

This bill expands the applicability of the One Maryland economic development tax credit to "qualified distressed political subdivisions," which includes counties and municipalities that meet specified unemployment or income requirements. The requirements are similar, but not identical, to those for a qualified distressed county under current law. A minimum range for the project tax credit is created based on the population of the political subdivision. The period used to determine program eligibility based on unemployment and income levels is increased from 24 months to 60 months; however, a county can also be a qualified distressed political subdivision if 55% or more of the municipalities located in that county meet the criteria to be qualified distressed political subdivisions.

The bill takes effect July 1, 2017, and applies to all taxable years beginning after December 31, 2016.

Fiscal Summary

State Effect: General and special fund revenues decrease in total by $2.6 million in FY 2019, escalating to $10.3 million in FY 2022, under the assumptions discussed below. Future year revenues continue to decrease significantly beyond FY 2022 as tax credits continue to be applied. The Department of Commerce (Commerce) and the Comptroller can likely handle the bill's requirements with existing budgeted resources.

($ in millions)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
GF Revenue	$0	($2.2)	($4.3)	($6.5)	($8.7)
SF Revenue	$0	($0.4)	($0.8)	($1.2)	($1.6)
Expenditure	0	0	0	0	0
Net Effect	$0.0	($2.6)	($5.1)	($7.7)	($10.3)

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

Local Effect: Local highway user revenues (LHURs) decrease by $27,000 in FY 2019, escalating to $108,000 in FY 2022, from additional One Maryland tax credits claimed against the corporate income tax (CIT). Expenditures are not affected.

Small Business Effect: Meaningful.

Analysis

Bill Summary: "Qualified distressed political subdivision" means:

- a county or municipality with an average unemployment rate that exceeded the State's average during the preceding 60-month period by either 2 percentage points or 150%;
- a county or municipality with an average per capita personal income that does not exceed 67% of the State's average during the preceding 60-month period; or
- a county in which 55% or more of the municipalities located in that county meet one of the above qualifications.

It includes a county or municipality that no longer meets either the unemployment or income criterion but has met at least one of the criteria at some time during the preceding 24-month period.

Generally, requirements for eligibility for either a project or start-up tax credit are unchanged. However, for a facility located in a qualified distressed political subdivision with a population of 5,000 or fewer individuals, a business must create 10 (instead of 25) or more qualified positions at a new or expanded facility. In addition, specified retail, art, and nonprofit industries qualify under the program.

A qualified business entity may claim a project tax credit for the cost of an eligible economic development project in a qualified distressed political subdivision if the total eligible project cost for the eligible economic development project is:

- for a qualified distressed political subdivision with a population of 5,000 or fewer individuals, at least $250,000;
- for a qualified distressed political subdivision with a population of 5,001 to 10,000 individuals, at least $350,000; or
- for a qualified distressed political subdivision with a population of more than 10,000 individuals, at least $500,000.

A qualified business entity in a qualified distressed political subdivision with a population of 5,000 or fewer individuals may claim a prorated share of either the project or start-up credit as specified in the bill if the number of positions decreases below 10 but remains at or above 5, and the business has maintained at least 10 positions for at least 5 years.

Current Law:

One Maryland Program

Generally, 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 $5.0 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.

One Maryland Eligibility

A project must be in a qualified distressed county and in a PFA (or, if not in a PFA, have received approval from the Board of Public Works) 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 150%; or
- a per capita personal income that may not exceed 67% of the State's average during the preceding 24-month period.

Chapter 715 of 2012 temporarily altered the definition of a qualified distressed county so that a county could also be eligible if its average unemployment rate exceeded the State average by 2 percentage points; that provision terminated June 30, 2016.

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

Background: Baltimore City and Allegany, Dorchester, Somerset, and Worcester counties are currently considered qualified distressed counties under the One Maryland program. According to Commerce, an additional 58 municipalities would qualify under the bill based on unemployment and/or income levels. Of those 58 municipalities, 45 are located such that Caroline, Garrett, Prince George's, Washington, and Wicomico counties would qualify based on the 55% municipality threshold for an entire county to qualify. The remaining 13 municipalities would qualify individually.

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. The Comptroller noted significant challenges associated with municipal-level data in its response to requests for information related to this fiscal and policy note.

Economic Development Tax Incentives

Numerous federal, State, and local programs 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 on the Department of Legislative Services (DLS) website.

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 March 2016, Commerce had certified a total of $236.3 million in One Maryland tax credits. Companies generally have 15 years to claim the entire amount of the credit (the DLS report found that only about one-third of credits had been claimed at that time). Existing projects will continue to decrease State revenues significantly over time – a revenue loss that will occur independent of the losses that will result from new projects going forward.

State Fiscal Effect: Under the assumptions discussed below, general and special fund revenues decrease in total by $2.6 million in fiscal 2019, $5.1 million in fiscal 2020, $7.7 million in fiscal 2021, and $10.3 million in fiscal 2022. Future year revenues continue to decline significantly beyond fiscal 2022 as tax credits continue to be applied by qualified business entities. The effect on general and special fund revenues is shown in **Exhibit 1**.

According to the DLS evaluation of the One Maryland tax credit, 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, Commerce estimates that Caroline, Garrett, Prince George's, Washington, and Wicomico counties and 13 additional municipalities qualify for the One Maryland program under the bill. These are in addition to Baltimore City and Allegany, Dorchester, Somerset, and Worcester counties that currently qualify. Adding the five counties increases the population covered by the program from about 800,000 to about 2 million.

Commerce typically certifies three or four projects per year. Based on the anticipated expansion of the program – it more than doubles the potential population and also makes more business activities eligible – this estimate assumes (1) five *additional* projects are certified annually beginning in 2018 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. Regardless of the actual revenue losses, the bill substantially increases the program's scope and potential costs.

Exhibit 1
General and Special Fund Revenue Impacts
Fiscal 2018-2022
($ in Millions)

	FY 2018	**FY 2019**	**FY 2020**	**FY 2021**	**FY 2022**
General Fund	$0.0	($2.2)	($4.3)	($6.5)	($8.7)
HEIF	0.0	(0.1)	(0.2)	(0.3)	(0.5)
TTF	0.0	(0.3)	(0.6)	(0.8)	(1.1)
Total	**$0.0**	**($2.6)**	**($5.1)**	**($7.7)**	**($10.3)**

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

HEIF: Higher Education Investment Fund
TTF: Transportation Trust Fund

Source: Department of Legislative Services

Commerce 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 $27,020 in fiscal 2019, escalating to $108,081 by fiscal 2022, as a result of additional One Maryland tax credits being claimed against the CIT.

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: HB 584 of 2016 received a hearing from the House Ways and Means Committee, but no further action was taken.

Cross File: None.

Information Source(s): Department of Commerce; Comptroller's Office; U.S. Census Bureau; Department of Legislative Services

Fiscal Note History: First Reader - February 7, 2017
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