Department of Legislative Services

Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 796 (Senator Edwards, *et al.*)
Budget and Taxation

Economic Development - County Economic Development Tax Incentives Program and One Maryland Tax Credit

This bill establishes the County Economic Development Tax Incentives Program to encourage businesses to locate and expand in specified counties in the State. Under the program, a qualified business that locates or expands in nine rural counties or Baltimore City is eligible for 10 years of property, income, and sales tax benefits. The definition of "qualified distressed county" for purposes of the One Maryland Tax Credit Program is altered to permanently remove eligibility for counties that become ineligible for any period of time.

The bill takes effect July 1, 2017.

Fiscal Summary

State Effect: General and special fund revenues decrease beginning in FY 2018 from tax incentives, most of which is anticipated to be from the general fund, and some of which may be offset by the change to the One Maryland program beginning in FY 2019. General fund revenues could easily decrease by $5.0 million or more annually; the net revenue decrease cannot be reliably estimated at this time. General fund expenditures for the Department of Commerce (Commerce) and the Comptroller increase by $330,700 in FY 2018 for staff and one-time programming and administrative costs to implement the bill. Future years reflect annualization and the elimination of one-time costs.

(in dollars)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
GF Revenue	($5,000,000)	($5,000,000)	($5,000,000)	($5,000,000)	($5,000,000)
SF Revenue	(-)	(-)	(-)	(-)	(-)
GF Expenditure	$330,700	$248,100	$259,200	$270,900	$283,300
Net Effect	($5,330,700)	($5,248,100)	($5,259,200)	($5,270,900)	($5,283,300)

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

Local Effect: Local income tax revenues decrease by about 3% of the total net State subtraction modification claimed beginning in FY 2018. Local real and personal property tax revenues decrease beginning in FY 2018 from property tax exemptions taken by qualified businesses to the extent exemptions are authorized by local governments. Further, local highway user revenues potentially decrease beginning in FY 2018 from reduced corporate income tax (CIT) revenues, which may be partially offset by increased CIT revenues due to the change to the One Maryland program beginning in FY 2019.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The County Economic Development Tax Incentives Program is established to encourage businesses to locate and expand in specified counties in the State.

Location and Expansion of Businesses in Rural Counties

Commerce may certify a business as a qualified business in one or more of nine specified counties and Baltimore City if the business (1) applies to Commerce; (2) meets any additional requirements established by Commerce by regulation; and (3) provides evidence of an intention to locate or expand a business in an eligible jurisdiction *and* to hire at least 10 additional employees in an eligible jurisdiction. A business may not be designated as a qualified business if the activities of the business are primarily retail.

For each of the 10 taxable years after a business is designated as a qualified business under the bill, the qualified business is entitled to the following tax incentives:

- a State property tax exemption;
- a county (including Baltimore City) or municipality property tax exemption, if authorized by the county or municipality;
- an income tax subtraction modification for the corporate or personal income tax; and
- a sales and use tax exemption.

Commerce may not designate a business as a qualified business under the bill after September 30, 2027. Commerce must adopt regulations to implement these provisions of the bill.

Tax Incentives for Qualified Businesses in Rural Counties

A qualified business in the 10 specified jurisdictions is eligible for a subtraction modification for the personal income tax or CIT. In addition, property is not subject to the State property tax if the property is owned by a qualified business. Both the subtraction modification and the property tax exemption can be taken for up to the 10 taxable years following the designation of a business as a qualified business. The sales and use tax does not apply to a sale of capital equipment used as part of the activities of a qualified business in a jurisdiction in which the business expanded as part of its application to be a qualified business. Local jurisdictions are authorized to exempt property owned by a qualified business from the county or municipal property tax for a duration set by the jurisdiction.

One Maryland Program Eligibility Change

The definition of "qualified distressed county" for purposes of the One Maryland Tax Credit Program is altered to permanently remove eligibility for jurisdictions that become ineligible for any period of time. However, the definition change may not be construed to prohibit Baltimore City or Allegany, Caroline, Dorchester, Somerset, Washington, or Worcester counties from participating in the program until the jurisdiction fails to meet the definition of a qualified distressed county in current law.

Current Law:

Qualified Distressed County

A "qualified distressed county" means a county with:

- 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 two 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.

Baltimore City and Allegany, Dorchester, Somerset, and Worcester counties are currently considered qualified distressed counties under the One Maryland program.

Background:

Economic Development Tax Incentives

Numerous federal, State, and local programs with a similar focus and objective to the program established under the bill are currently in place. Incentives that aim to increase employment or economic development within distressed areas or similar areas include 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.

State Fiscal Effect: Demand for the program cannot be reliably estimated at this time, but given the incentives, it is likely to be a popular program. Therefore, general fund revenues, Transportation Trust Fund (TTF) revenues, and Higher Education Investment Fund (HEIF) revenues decrease beginning in fiscal 2018 from subtraction modifications and sales tax exemptions taken under the bill by qualified businesses. Special fund revenues for the Annuity Bond Fund decrease beginning in fiscal 2018 from State property tax exemptions taken under the bill by qualified businesses. The annual cost and the allocation of the revenue decreases cannot be reliably estimated at this time; however, given the revenue structure of the possible taxes to which the credit may apply, the majority of the revenue decrease is anticipated to be from the general fund. General fund revenues could easily decrease $5.0 million or more annually beginning as soon as fiscal 2018.

Department of Commerce

Commerce advises that it cannot administer the program with existing staff, as it anticipates that the low threshold for eligibility will generate a significant number of applications. Therefore, general fund expenditures for Commerce increase by $85,896 in fiscal 2018, which accounts for the bill’s July 1, 2017 effective date. This estimate reflects the cost of hiring one individual to administer the program established by the bill. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1
Salary and Fringe Benefits	$80,631
Other Operating Expenses	5,265
Total FY 2018 Commerce Expenditures	**$85,896**

Future year expenditures reflect a full salary with annual increases and employee turnover and ongoing operating expenses.

Comptroller

The Comptroller requires two tax specialists to audit and review tax incentives taken by qualified businesses. The Comptroller notes that it anticipates significant difficulty in verifying that the tax incentives are applied appropriately. In addition, the Comptroller anticipates one-time programming and administrative costs of $154,300 in fiscal 2018. These costs are associated with the income tax subtraction modifications and the sales and use tax exemption.

Therefore, general fund expenditures for the Comptroller increase by $244,836 in fiscal 2018, which accounts for a six-month start-up delay. This estimate reflects the cost of hiring two tax specialists to audit and review tax incentives taken by qualified businesses under the program established by the bill. It includes salaries, fringe benefits, one-time costs, and ongoing operating expenses.

Positions	2
Salaries and Fringe Benefits	$80,631
One-time Administrative and Programming Expenses	154,300
Other Operating Expenses	9,905
Total FY 2018 Comptroller Expenditures	**$244,836**

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses.

One Maryland Program Eligibility Change

Based on the historical tendency of counties to lose and regain their status as qualified distressed counties under the One Maryland program and that, therefore, one or more counties or Baltimore City will eventually be permanently removed from the One Maryland program under the bill, general fund revenues increase, TTF revenues increase, and HEIF revenues increase, potentially as early as fiscal 2019, due to the change to the One Maryland program. The amount, however, cannot be reliably estimated. Both Baltimore City and Dorchester County are in the 24-month grace period allowed under current law, both of which end June 30, 2018. Baltimore City is close to meeting the definition again based on its unemployment rate.

Local Fiscal Effect: In the 10 eligible local jurisdictions, local income tax revenues decrease by about 3% of the total net State subtraction modification claimed beginning in fiscal 2018. Local real and personal property tax revenues decrease beginning in fiscal 2018 from real and personal property tax exemptions taken by qualified businesses to the extent exemptions are authorized by the local governments. Local highway user revenues potentially decrease beginning in fiscal 2018 from reduced CIT revenue, which may be partially offset by increased CIT revenue due to the change to the One Maryland program beginning in fiscal 2019.

Small Business Effect: The bill provides qualified businesses with tax benefits for 10 years. The certification process requires a business to provide evidence of an intention to locate or expand in an eligible jurisdiction and to hire at least 10 additional employees in an eligible jurisdiction. Conceivably, a small business could expand into an eligible jurisdiction, hire 10 additional employees, and still remain a small business. These small businesses would benefit from the tax incentives provided under the bill. It is unlikely, however, that all qualified businesses will be small businesses.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Commerce; Comptroller's Office; Dorchester, Garrett, and Montgomery counties; Maryland Association of Counties; Department of Legislative Services

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