HB 1295

Department of Legislative Services

Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 1295 (Delegate Buckel, *et al.*)
Ways and Means Budget and Taxation

One Maryland Economic Development Tax Credits - Simplification and Alteration

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This bill (1) modifies the One Maryland Economic Development Tax Credit Program and (2) renames and modifies the eligibility criteria for a "qualified distressed county" (QDC). **The bill takes effect July 1, 2018, and is applicable to certifications of qualified business entities issued after June 30, 2018.**

Fiscal Summary

State Effect: State revenues decrease in total by $0.8 million in FY 2019, escalating to $6.9 million in FY 2023, from credits taken under the One Maryland Program. State revenues further decrease beginning in FY 2019 due to the QDC eligibility changes for other State programs. The Department of Commerce (Commerce) and the Comptroller can handle the bill's requirements with existing budgeted resources.

($ in millions)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
GF Revenue	($0.7)	($2.1)	($3.6)	($4.4)	($5.8)
SF Revenue	($0.1)	($0.4)	($0.6)	($0.8)	($1.1)
Expenditure	0	0	0	0	0
Net Effect	($0.8)	($2.5)	($4.2)	($5.2)	($6.9)

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

Local Effect: Local highway user revenues (LHURs) and local income tax revenues decrease beginning in FY 2019. Expenditures are not affected.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

One Maryland Program Changes

In addition to other minor and conforming changes, the bill makes the following changes to the One Maryland Program:

- the minimum amount required to be paid for a qualifying position is increased from 150% of the federal minimum wage to 120% of the State minimum wage;
- the start-up tax credit of up to $500,000 is removed;
- a tiered structure for projects and associated project tax credits is established based on the number of qualifying positions;
- tax credits may be claimed against the entirety of the income of the business, rather than solely the income attributable to the One Maryland project;
- tax credits may only be carried forward up to 10 years, instead of 14;
- geographic eligibility is expanded by modifying the relevant income criteria; and
- a qualified business entity must report the amount of the project tax credit that it claims each year to Commerce, or else be disqualified from claiming any unclaimed amount of the credit.

For purposes of calculating the project tax credit, the maximum amount remains unchanged at $5 million, although the qualified business entity must create at least 50 (instead of 25) qualified positions. The maximum amount is $2.5 million or $1.0 million if the qualified business entity creates at least 25 or 10 qualified positions, respectively.

Changes to Geographic Eligibility Definitions

The term "qualified distressed county" is replaced by "Tier I county." The income-based standard for qualification is changed from no more than 67% of statewide average per capita personal income to no more than 75% of statewide median household income. The unemployment-based standard and the 24-month lookback period for eligibility are unchanged. This definition is also used in several other State programs.

Current Law/Background:

One Maryland Program

Generally, under the One Maryland Program, businesses that (1) establish or expand a business facility in a priority funding area; (2) are located in a QDC; and (3) are primarily

engaged in specified business activities may be entitled to tax credits for costs related to the new or expanded facility.

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 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.

In the first five years of claiming the credit, a business may claim the start-up credit against the company's Maryland income tax liability and the project credit against the income tax attributable to the qualifying project. Beginning in year six, companies generally are able to utilize more of the credit in each tax year – both credits may be claimed as a refund up to the amount of the withholding taxes attributable to the qualified employees working on the project. In addition, the project credit may also be applied to any remaining Maryland income tax liability.

One Maryland Tax Credit Evaluation

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 December 2017, Commerce had certified a total of $285.4 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.

Qualified Distressed County

A QDC means a county with:

- an average unemployment rate that exceeded the State's average during the preceding 24-month period by either two percentage points or 150%; or
- a per capita personal income that may not exceed 67% of the State's average during the preceding 24-month period.

It also includes any county that no longer meets the unemployment and personal income criteria but has met at least one of the criteria at some point in the preceding 24-month period. Counties can enter and exit the program based on these criteria.

According to Commerce, Baltimore City and Allegany, Dorchester, Somerset, and Worcester counties are currently designated as QDCs. Baltimore City and Dorchester County currently qualify because they have met at least one of the criteria at some time during the preceding 24-month period. However, Dorchester County will no longer qualify after June 2018, and Baltimore City will no longer qualify after November 2019 unless they meet one of the criteria again. Historically, Baltimore City has remained a QDC.

State Fiscal Effect:

One Maryland Program Changes

Under the assumptions discussed below, State revenues decrease in total by $0.8 million in fiscal 2019, escalating to $6.9 million in fiscal 2023. Future year revenues continue to decrease significantly thereafter as tax credits continue to be applied by qualified businesses. The combined effect on State revenues is shown in **Exhibit 1**. About 85% of the total revenue decrease in each year is anticipated to be from the general fund. Actual revenue losses in any year could easily exceed these amounts if more projects are certified or credits are applied earlier.

A business must be in a QDC/Tier I county to qualify for the One Maryland Program. According to Commerce, altering the eligibility criteria for QDCs/Tier I counties adds Caroline, Garrett, Kent, Washington, and Wicomico counties, and readmits Baltimore City and Dorchester County prior to their grace periods ending. This is in addition to Allegany, Somerset, and Worcester counties that currently qualify and will continue to do so under the bill.

Among other changes, the bill also (1) reduces the maximum total credit amount from $5.5 million to $5.0 million per project and requires 50 qualifying positions instead of 25 to receive the maximum amount; (2) establishes credit amounts of $2.5 million and $1.0 million for smaller projects; (3) increases the wages that must be paid for qualifying positions; and (4) allows the credit to be taken against the full income of a business. Thus, there are several changes that are anticipated to further decrease revenues, with a few changes that mitigate some of the effect.

Exhibit 1
Combined Revenue Impacts
Fiscal 2019-2027
($ in Millions)

Certification Year	Total Amount Certified	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024-2027	Total
TY 2018	$4.0	-$0.8	-$0.8	-$0.8	-$0.8	-$0.8	$0	-$4.0
TY 2019	8.5		-1.7	-1.7	-1.7	-1.7	-3.4	-8.5
TY 2020	8.5			-1.7	-1.7	-1.7	-5.1	-8.5
TY 2021	5.0				-1.0	-1.0	-4.0	-5.0
TY 2022	8.5					-1.7	-6.9	-8.5
	$34.5	**-$0.8**	**-$2.5**	**-$4.2**	**-$5.2**	**-6.9**	**-$14.9**	**-$34.5**

Note: About 85% of the total revenue decrease in each year is anticipated to be from the general fund.

TY: tax year

Source: Department of Legislative Services

This estimate assumes that:

- one project is certified for $3.5 million in each of the five additional QDCs/Tier I counties every three years, beginning in the second half of tax year 2018 (one in 2018, two in 2019, two in 2020, *etc.*);

- two projects each year are certified at the new $1.0 million threshold that would not have otherwise qualified under current law (only one in 2018);
- one project each year that would have qualified for $5.5 million in credits instead qualifies for $5 million, and other project certifications in existing QDCs are otherwise unchanged;
- the full credit amounts are applied evenly over five years;
- 75% of the credits are applied to the corporate income tax and 25% to the personal income tax; and
- Baltimore City and Dorchester County would have otherwise qualified as a QDC/Tier I county absent the bill.

Any change in these assumptions alters the timing and amount of the revenue losses. This estimate does not include any effects of the bill's prohibition against a business simultaneously claiming the One Maryland tax credit and the Job Creation tax credit.

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.

Change in Qualified Distressed County Eligibility

In addition to the One Maryland tax credit, the QDC definition affects the More Jobs for Marylanders Program, the Maryland Economic Development Assistance Authority and Fund (MEDAAF), and the Maryland Industrial Financing Authority (MIDFA).

Changing QDC designations decreases general and special fund revenues to the extent that additional State property tax credits and corporate filing fee exemptions are taken under the More Jobs for Marylanders Program by new manufacturing businesses. The amount of this decrease is likely minimal. Special fund revenues may also decrease for Commerce due to fewer fees paid under MIDFA for projects located in QDCs. These revenue effects may occur as early as fiscal 2019. Overall MEDAAF finances are likely unaffected, although funding may be reallocated between projects.

Local Revenues: Local governments receive a portion of Transportation Trust Fund revenues as LHURs for the purpose of constructing and maintaining local roads. LHURs and local income tax revenues decrease due to the One Maryland changes beginning in fiscal 2019.

Small Business Effect: The bill offers a high-value tax credit to businesses that would otherwise be ineligible to receive them. These businesses benefit directly from up to a

$5.0 million tax credit per eligible project. Conversely, some small businesses that would have been eligible for a $5.5 million credit are only eligible for a $5.0 million credit.

Additional Information

Prior Introductions: None.

Cross File: Although designated as a cross file, SB 989 (Senator Edwards, *et al.* - Budget and Taxation) is not identical.

Information Source(s): Department of Commerce; Harford and Montgomery counties; Maryland Association of Counties; Department of Legislative Services

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Analysis by: Stephen M. Ross

Direct Inquiries to:
(410) 946-5510
(301) 970-5510