HB 476

Department of Legislative Services

Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 476 (Delegate Ali, *et al.*)

Ways and Means Budget and Taxation

Income Tax Credit - Employment of Diversion Program Participants (Second Chance Act)

This bill creates a tax credit against the State income tax for a business that hires an individual who participates in a diversion program. A business may claim an income tax credit that may not exceed 30% of up to the first $6,000 of wages paid to the qualified employee during the first year of employment and 20% of up to the first $6,000 of wages paid to the qualified employee during the second year of employment. A maximum of $100,000 in credits may be issued annually by the Department of Labor, Licensing, and Regulation (DLLR). **The bill takes effect July 1, 2018, and applies to tax year 2018 through 2022.**

Fiscal Summary

State Effect: General fund, Transportation Trust Fund (TTF), and Higher Education Investment Fund (HEIF) revenues decrease by up to $100,000 annually in FY 2019 through 2023. General fund expenditures increase by $83,800 in FY 2019 due to implementation and administrative costs at the Comptroller's Office and DLLR.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
GF/SF Rev.	($100,000)	($100,000)	($100,000)	($100,000)	($100,000)
GF Expenditure	$83,800	$42,900	$44,300	$45,700	$24,800
Net Effect	($183,800)	($142,900)	($144,300)	($145,700)	($124,800)

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

Local Effect: Local highway user revenues decrease minimally in FY 2019 through 2023 as a result of credits claimed against the corporate income tax. Expenditures are not affected.

Small Business Effect: Minimal.

Analysis

Bill Summary: A diversion program is a program that provides rehabilitation and training services in lieu of criminal prosecution to an individual charged with a nonviolent criminal offense. A business entity is a person conducting or operating a trade or business in the State or specified tax-exempt organizations. A business entity may not claim the credit for a qualified employee who is hired to replace a laid-off employee or an employee who is on strike. A tax-exempt organization may apply the credit against the payment of specified employee withholding taxes. The tax credit is nonrefundable and may not be carried over to any other taxable year.

A business must submit an application to DLLR, and DLLR must certify the amount of any approved tax credit within 45 days of receiving the application. Tax credit applications are approved on a first-come, first-served basis, and the bill specifies the information an application must include. DLLR must report to the General Assembly by December 31, 2021, on the effectiveness of the tax credit. DLLR must adopt regulations that implement the bill and provide for the administration of the tax credit.

Current Law/Background: The State provides several employment tax credits, such as the job creation, the enterprise zone, One Maryland, veteran employees, more jobs for Marylanders, and businesses that create new jobs tax credits.

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, which are both identical to the ones offered by the bill. Between tax years 2007 and 2011, taxpayers claimed a total of $76,881 in credits.

While the program terminated on June 30, 2012, DLLR continues to administer the Federal Bonding Program, which provides fidelity bonds to businesses who hire qualified high-risk applicants, including individuals with a history of arrest, conviction, or incarceration. Fidelity bonds insure the business against stealing by theft, forgery, larceny, or embezzlement. In fiscal 2015, DLLR issued 29 fidelity bonds.

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 extended through tax year 2019.

State Revenues: DLLR may approve a maximum of $100,000 in credits annually in tax year 2018 through 2022. It is unknown how many individuals participate in a diversion program in the State, but just within the Department of Juvenile Services, approximately 2,200 youth are placed in pre-court supervision annually. Therefore, there is a likelihood those youth may be referred to a diversion program and DLLR will award the maximum amount of credits each year, making the program fully subscribed. As a result, general fund, TTF, and HEIF revenues decrease by a maximum of $100,000 annually in fiscal 2019 through 2023 for businesses in the State that claim tax credits for employing qualified individuals who participate in a diversion program. However, if participation in the tax credit program is similar to that of the tax credit for wages paid to a qualified ex-felon, the annual revenue loss could be substantially less, likely only approximately $20,000 annually in fiscal 2019 through 2023.

State Expenditures: The Comptroller's Office reports that it will incur a one-time expenditure increase of $34,000 in fiscal 2019 to add the credit to the personal and corporate income tax credit form. This amount includes data processing changes to the SMART income tax return processing and imaging systems and system testing.

General fund expenditures at DLLR increase by $49,819 in fiscal 2019, which accounts for the bill's July 1, 2018 effective date. This estimate reflects the cost of hiring a contractual administrator to oversee the program and to assist with processing applications. The estimate includes salaries, fringe benefits, grants, one-time start-up costs, and ongoing operating expenses.

Contractual Position	1
Contractual Salary and Fringe Benefits	$42,504
One-time Start-up Costs	4,890
Operating Expenses	2,425
DLLR Expenditures	**$49,819**
Comptroller Expenditures	**34,000**
Total FY 2019 State Expenditures	**$83,819**

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses through fiscal 2023.

This estimate does not include any health insurance costs that could be incurred for the specified contractual employee under the State's implementation of the federal Patient Protection and Affordable Care Act.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General; Comptroller's Office; Judiciary (Administrative Office of the Courts); Department of Public Safety and Correctional Services; Department of Juvenile Services; Department of Labor, Licensing, and Regulation; Department of Legislative Services

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