HB 918

Department of Legislative Services

Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 918 (Delegate Haynes)
Ways and Means

Income Tax - Credit for Opportunity Zone Employers - Formerly Incarcerated Individuals

This bill creates a tax credit against the State income tax for business entities within a federal Opportunity Zone that employ a formerly incarcerated individual to work full time. The amount of the credit is equal to the lesser of $1,000 for each eligible employee or $5,000. **The bill takes effect July 1, 2019, and applies to tax year 2019 and beyond.**

Fiscal Summary

State Effect: General fund revenues decrease by $84,600 annually beginning in FY 2020 due to tax credits claimed against the income tax. Transportation Trust Fund (TTF) revenues decrease by $10,900 and Higher Education Investment Fund (HEIF) revenues decrease by $4,500 beginning in FY 2020. TTF expenditures decrease by $1,500 annually beginning in FY 2020. General fund expenditures for the Comptroller's Office increase by $34,000 in FY 2020.

(in dollars)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
GF Revenue	($84,600)	($84,600)	($84,600)	($84,600)	($84,600)
SF Revenue	($15,400)	($15,400)	($15,400)	($15,400)	($15,400)
GF Expenditure	$34,000	$0	$0	$0	$0
SF Expenditure	($1,500)	($1,500)	($1,500)	($1,500)	($1,500)
Net Effect	($132,500)	($98,500)	($98,500)	($98,500)	($98,500)

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

Local Effect: Local highway user revenues decrease by approximately $1,500 beginning in FY 2020 as a result of credits claimed against the corporate income tax. Expenditures are not affected.

Small Business Effect: Minimal.

Analysis

Bill Summary: A qualified employer 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 receive a refundable credit; otherwise, the tax credit is nonrefundable and may not be carried over to any other taxable year.

Current Law: 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. Between tax years 2007 and 2011, taxpayers claimed a total of $76,881 in credits.

While the program terminated on June 30, 2012, the Department of Labor, Licensing, and Regulation (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.

Background: The federal Work Opportunity Tax Credit (WOTC) 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. The Congressional Research Service (CRS) reported data on WOTC certifications from federal fiscal 2015-2017. **Exhibit 1** shows that approximately 3% of workers certified for the credit were ex-felons. Precise data on WOTC claims are not available from the Internal Revenue Service, but CRS notes that the Office of Management and Budget estimated that WOTC claims in fiscal 2017 were about $1.3 billion, with corporations claiming about $1.0 billion and individuals (including employers that claim business income and expenses on their individual tax returns) claiming about $320 million.

Exhibit 1
WOTC Certifications by Target Population
Federal Fiscal 2015-2017

	Fiscal 2015		**Fiscal 2016**		**Fiscal 2017**	
	Number	Percent	Number	Percent	Number	Percent
TANF Recipients	76,639	4.00%	87,158	3.50%	73,065	3.60%
Veterans	121,629	6.40%	158,083	6.40%	149,495	7.40%
Ex-felons	53,307	2.80%	70,590	2.80%	67,862	3.40%
Designated Community Residents	75,568	4.00%	89,155	3.60%	78,300	3.90%
Vocational Rehabilitation Referrals	27,932	1.50%	34,905	1.40%	30,831	1.50%
SNAP Recipients	1,381,946	72.90%	1,825,056	73.50%	1,376,325	68.20%
SSI Recipients	23,480	1.20%	41,797	1.70%	32,384	1.60%
Long-term TANF Recipients	131,839	7.00%	169,283	6.80%	133,148	6.60%
Other	4,188	0.20%	8,122	0.30%	76,479	3.80%
Total	**1,896,528**	**100.00%**	**2,484,149**	**100.00%**	**2,017,889**	**100.00%**

SNAP: Supplemental Nutrition Assistance Program
SSI: Supplemental Security income
TANF: Temporary Assistance for Needy Families
WOTC: Work Opportunity Tax Credit

Source: Congressional Research Service

The Federal Tax Cuts and Jobs Act of 2017 established the Qualified Opportunity Zones Program to incentivize private investment in distressed communities. Under the Act, states may nominate up to 25% of specified low-income census tracts for designation by the U.S. Treasury as Opportunity Zones. Maryland designated zones in 2018. The Administration has also established the Opportunity Zone Leadership Task Force by executive order to provide guidance and coordinate efforts related to Opportunity Zone investment.

The program offers three federal tax incentives related to capital gains: (1) a temporary tax deferral for capital gains reinvested in an Opportunity Fund; (2) a step up in basis for capital gains reinvested in an Opportunity Fund, which excludes up to 15% of the original capital gain from taxation; and (3) a permanent exclusion from taxable income of capital gains from the sale or exchange of an investment in an Opportunity Fund, if the investment is held for at least 10 years. More information on the tax incentives can be found on the Economic Innovation Group's website.

Appendix – Federal Opportunity Zones shows the current federal opportunity zones in Maryland. Approximately 10% of Maryland's population over the age of 16 live in federal opportunity zones.

State Revenues: General fund, TTF, and HEIF revenues decrease beginning in fiscal 2020 to the extent that businesses in Opportunity Zones in the State claim tax credits for employing formerly incarcerated individuals. Based on WOTC certifications of ex-felons, scaled down based on Maryland's prison population and the population in federal opportunity zones in the State, the annual revenue loss is approximately $100,000 annually. The estimate assumes that 25% of all credits are claimed against the personal income tax, with the remaining amount claimed against the corporate income tax. As a result, general fund revenues decrease by $84,600, TTF revenues decrease by $10,900, and HEIF revenues decrease by $4,500 beginning in fiscal 2020. **Exhibit 2** shows the estimated State fiscal impacts resulting from the tax credit.

Exhibit 2
Fiscal Impact
Fiscal 2020-2024

	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
General Fund	($84,600)	($84,600)	($84,600)	($84,600)	($84,600)
HEIF	(4,500)	(4,500)	(4,500)	(4,500)	(4,500)
TTF	(10,900)	(10,900)	(10,900)	(10,900)	(10,900)
Total Revenues	**($100,000)**	**($100,000)**	**($100,000)**	**($100,000)**	**($100,000)**
TTF Expenditures	**($1,500)**	**($1,500)**	**($1,500)**	**($1,500)**	**($1,500)**

HEIF: Higher Education Investment Fund
TTF: Transportation Trust Fund

State Expenditures: The Comptroller's Office reports that it will incur a one-time expenditure increase of $34,000 in fiscal 2020 to add the credit to the personal and corporate income tax credit form. This amount includes data processing changes to the income tax return processing and imaging systems and system testing.

A portion of TTF revenues are used to provide capital transportation grants to local governments. Thus, any decrease in TTF revenues from corporate tax revenues results in a 13.5% decrease in TTF expenditures to local governments. Accordingly, TTF expenditures decrease by $1,500 annually beginning in fiscal 2020 as shown in Exhibit 2. TTF revenues also fund the State capital program; thus, a decrease in TTF revenues decreases expenditures for the State capital program.

Local Revenues: Local governments receive a portion of corporate income tax revenues as local highway user revenues through capital transportation grants. Under this bill, local highway user revenues decrease by approximately $1,500 annually beginning in fiscal 2020 as a result of credits claimed against the corporate income tax.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office; Department of Public Safety and Correctional Services; Department of Information Technology; The Sentencing Project; Congressional Research Service; Department of Legislative Services

Fiscal Note History: First Reader - March 6, 2019
mm/hlb

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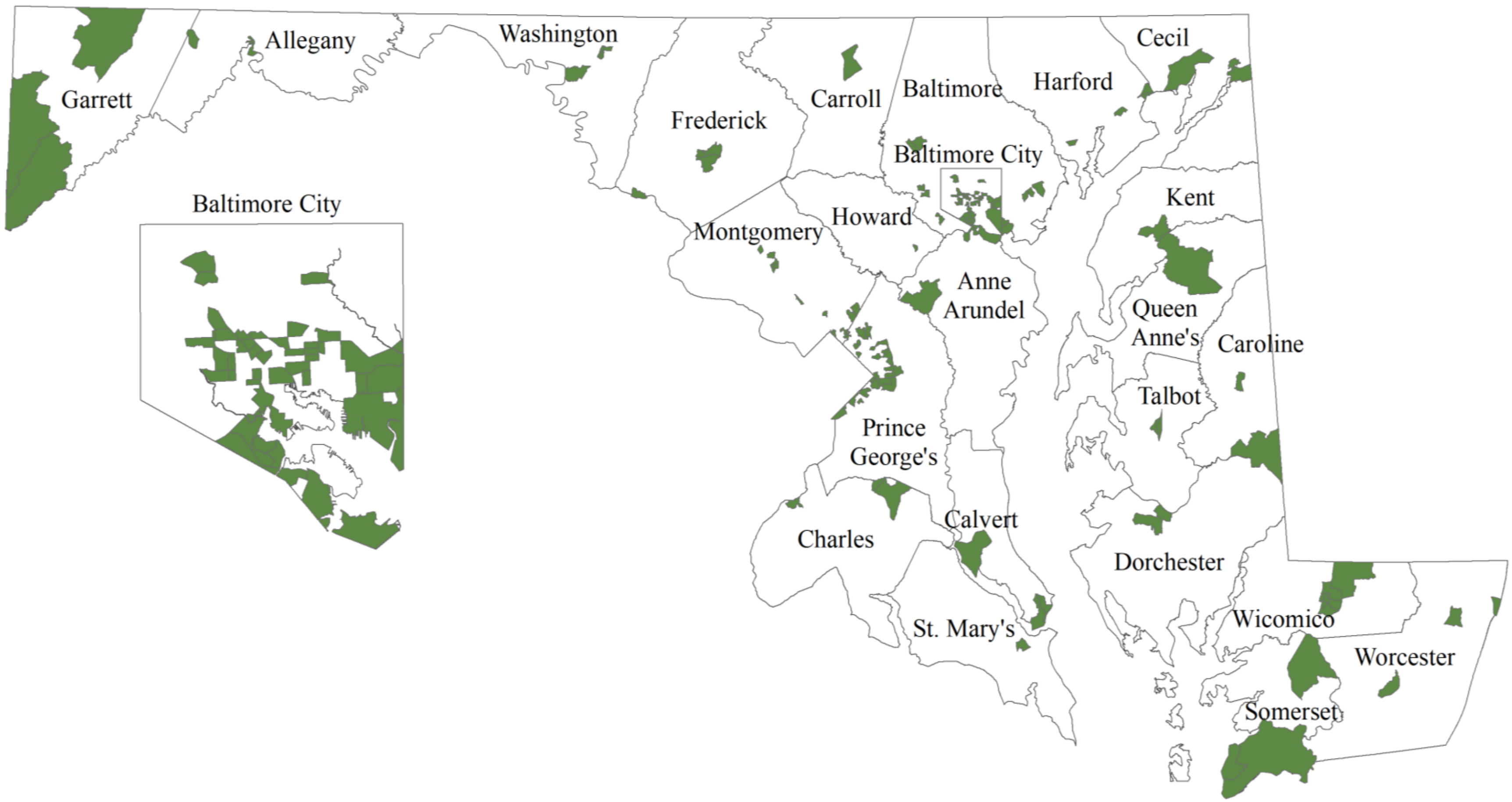
Appendix – Federal Opportunity Zones



Source: Department of Information Technology (MD iMAP)