HOUSE BILL 805

C8, Q3

By: Delegate Palakovitch Carr
Introduced and read first time: January 29, 2021
Assigned to: Ways and Means

A BILL ENTITLED

AN ACT concerning

Economic Development – Enterprise Zone Program – Alterations

FOR the purpose of altering the circumstances under which the Secretary of Commerce may designate an area as an enterprise zone; prohibiting the Secretary from designating a new enterprise zone or granting an expansion of an existing enterprise zone under certain circumstances; altering a certain limitation on the area by which an existing enterprise zone may be expanded in a single calendar year; altering the circumstances under which the Secretary may grant an extraordinary expansion of an enterprise zone; requiring the State Department of Assessments and Taxation, rather than the Comptroller, and the Department of Commerce to jointly assess the effectiveness of certain tax credits provided to certain business entities in enterprise zones; requiring each county within which an enterprise zone is located to submit to the Department of Commerce and the State Department of Assessments and Taxation a certain report on or before a certain date; requiring the Department of Commerce to provide certain notification to a county under certain circumstances; requiring the Department of Commerce and the State Department of Assessments and Taxation to jointly develop certain metrics and a framework for analyzing certain matters; requiring the State Department of Assessments and Taxation, rather than the Comptroller, and the Department of Commerce to submit a certain report; requiring the Secretary to adopt certain regulations; altering the definitions of “focus area employee” and “qualified employee” for purposes of eligibility for a certain credit against the State income tax; making a stylistic change and a technical correction; providing for the application of certain provisions of this Act; and generally relating to the Enterprise Zone Program.

BY repealing and reenacting, with amendments,

Article – Economic Development
Section 5–704(a)(1) and (4) and (b), 5–705, and 5–709
Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
BY repealing and reenacting, without amendments,
Article – Economic Development
Section 5–707(a)
Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 10–702
Annotated Code of Maryland
(2016 Replacement Volume and 2020 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Economic Development

5–704.

(a) (1) The Secretary may only designate an area as an enterprise zone if the area:

(i) 1. is in a priority funding area or in a qualified opportunity zone under § 1400Z–1 of the Internal Revenue Code in Allegany County, Garrett County, Somerset County, or Wicomico County or meets an exception under Title 5, Subtitle 7B of the State Finance and Procurement Article; OR

2. IS IDENTIFIED IN THE MASTER PLAN OF A COUNTY AS A PRIORITY AREA OR A DESIGNATED AREA FOR FUTURE GROWTH OR AS A PRIORITY AREA FOR NEIGHBORHOOD OR COMMERCIAL REVITALIZATION; and

(ii) satisfies at least one of the requirements specified in paragraph (2) of this subsection.

(4) The Secretary:

(I) SHALL ADOPT REGULATIONS GOVERNING THE EVALUATION AND PRIORITIZATION OF APPLICATIONS FOR THE DESIGNATION OF NEW ENTERPRISE ZONES UNDER THIS SECTION AND THE EXPANSION OF EXISTING ENTERPRISE ZONES UNDER § 5–705 OF THIS SUBTITLE; AND

(II) may [establish by regulation any other requirements] ADOPT REGULATIONS necessary and appropriate to carry out this subtitle.

(b) (1) Within 60 days after a submission date, the Secretary may designate one or more enterprise zones from among the areas described in the applications timely
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(2) The designation of an area as an enterprise zone is effective for 10 years.

(3) Subject to paragraph (4) of this subsection, the Secretary may not designate more than six enterprise zones in a calendar year.

(4) If the aggregate amount of property tax credits claimed under § 9–103 of the Tax—Property Article for the immediately preceding fiscal year exceeded $50,000,000 or for the current fiscal year may be reasonably expected by the Department to exceed $50,000,000, the Secretary may not designate a new enterprise zone during the current fiscal year.

[(4)] (5) A county may not receive more than two enterprise zones in a calendar year.

5–705.

(a) (1) A political subdivision may apply to the Secretary to expand an existing enterprise zone in the same manner as the political subdivision would apply to designate a new enterprise zone.

(2) Except as provided in subsection (c) of this section, the Secretary may grant an expansion of an enterprise zone into an area that meets the requirements of § 5–704 of this subtitle.

(3) For purposes of § 5–704(b) of this subtitle, an expansion of an enterprise zone that does not exceed [50%] 10% of the existing geographic area of the enterprise zone does not count towards the limit on the number of enterprise zones that:

(i) the Secretary may designate in a calendar year; or

(ii) a county may receive in a calendar year.

(b) (1) The Secretary may grant one extraordinary expansion of an enterprise zone in the State each calendar year for an area that:

(i) meets the requirements of § 5–704 of this subtitle; and

(ii) in the determination of the Secretary, has suffered a significant loss of economic base or merits inclusion in an enterprise zone for a compelling economic reason.

(2) For purposes of § 5–704(b) of this subtitle, an extraordinary expansion
of an enterprise zone does not count towards the limit on the number of enterprise zones that:

   (i) the Secretary may designate in a calendar year; or
   (ii) a county may receive in a calendar year.

(C) IF THE AGGREGATE AMOUNT OF PROPERTY TAX CREDITS CLAIMED UNDER § 9–103 OF THE Tax – Property Article FOR THE IMMEDIATELY PRECEDING FISCAL YEAR EXCEEDED $50,000,000 OR FOR THE CURRENT FISCAL YEAR MAY BE REASONABLY EXPECTED BY THE Department TO EXCEED $50,000,000, THE Secretary MAY NOT GRANT AN EXPANSION OF AN EXISTING ENTERPRISE ZONE DURING THE CURRENT FISCAL YEAR.

5–707.

(a) To the extent provided for in this section, a business entity is entitled to:

   (1) the special property tax credit in § 9–103 of the Tax – Property Article;
   (2) the income tax credits in § 10–702 of the Tax – General Article; and
   (3) consideration for financial assistance from programs in Subtitle 1 of this title.

5–709.

(a) The Department and the [Comptroller] STATE Department of ASSESSMENTS AND Taxation jointly shall assess each year the effectiveness of the tax credits provided to business entities in enterprise zones and focus areas in enterprise zones, including:

   (1) the number and amounts of credits granted each year; and
   (2) the success of the tax credits in attracting and retaining business entities in enterprise zones and focus areas.

(B) (1) (i) ON OR BEFORE September 15 each year, each county within which an enterprise zone is located shall submit to the Department and the State Department of Assessments and Taxation a detailed report on each enterprise zone in the county to assist the Department and the State Department of Assessments and Taxation in the assessment required under subsection (a) of this section.

(ii) The county shall include in the report required under subparagraph (i) of this paragraph the following information.
FOR THE IMMEDIATELY PRECEDING FISCAL YEAR:

1. THE NUMBER OF PROPERTIES FOR WHICH THE PROPERTY TAX CREDIT UNDER § 9–103 OF THE Tax – Property Article was claimed;

2. THE NUMBER OF NEW APPLICATIONS SUBMITTED FOR THE PROPERTY TAX CREDIT UNDER § 9–103 OF THE Tax – Property Article;

3. THE NUMBER OF NEW APPLICATIONS APPROVED FOR THE PROPERTY TAX CREDIT UNDER § 9–103 OF THE Tax – Property Article; and

4. NOTABLE EXAMPLES OF REDEVELOPMENT OR NEW BUSINESSES RELOCATING OR EXPANDING IN THE ENTERPRISE ZONE DUE TO THE CREDITS.

(2) (I) IF A COUNTY FAILS TO PROVIDE THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE Department SHALL NOTIFY THE COUNTY THAT THE REPORT IS DUE.

(II) IF, AFTER THE Department HAS PROVIDED A COUNTY THE NOTICE DESCRIBED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COUNTY FAILS TO PROMPTLY PROVIDE THE OVERDUE REPORT, THE Secretary MAY NOT DESIGNATE A NEW ENTERPRISE ZONE IN THE COUNTY OR GRANT THE EXPANSION OF AN EXISTING ENTERPRISE ZONE IN THE COUNTY UNTIL THE REPORT IS RECEIVED BY THE Department.

(C) THE Department AND THE State Department OF Assessments AND Taxation SHALL JOINTLY DEVELOP FORMAL METRICS AND A FRAMEWORK FOR ANALYZING:

(1) THE COST–EFFECTIVENESS OF EACH ENTERPRISE ZONE; AND

(2) THE EFFECTIVENESS OF EACH ENTERPRISE ZONE IN ATTRACTING BUSINESSES AND INCREASING EMPLOYMENT.

[(b)] (D) On or before December 15 of each year, the Department and the [Comptroller] State Department OF Assessments AND Taxation SHALL submit to the Governor and, in accordance with § 2–1257 of the State Government Article, the General Assembly a report outlining the findings of the Department and the [Comptroller] State Department OF Assessments AND Taxation and any other information of value in determining the effectiveness of the tax credits provided under § 5–707(b) of this subtitle.
SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Tax – General

10–702.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) “Business entity” means:

1. a person conducting or operating a trade or business; or
2. an organization that is exempt from taxation under § 501(c)(3) or (4) of the Internal Revenue Code.

(ii) “Business entity” does not include a person owning, operating, developing, constructing, or rehabilitating property intended for use primarily as single or multifamily residential property located within the enterprise zone.

(3) “Economically disadvantaged individual” means an individual who is certified by provisions that the Maryland Department of Labor adopts as an individual who, before becoming employed by a business entity in an enterprise zone:

(i) was both unemployed for at least 30 consecutive days and qualified to participate in training activities for the economically disadvantaged under the federal Workforce Innovation and Opportunity Act or its successor; or

(ii) in the absence of an applicable federal act, met the criteria for an economically disadvantaged individual that the Secretary of Labor sets.

(4) (i) “Enterprise zone” has the meaning stated in § 5–701 of the Economic Development Article.

(ii) “Enterprise zone” includes a Regional Institution Strategic Enterprise zone established under Title 5, Subtitle 14 of the Economic Development Article.

(5) “Focus area” has the meaning stated in § 5–701 of the Economic Development Article.

(6) “Focus area employee” means an individual who:

(i) is a new employee or an employee rehired after being laid off for more than 1 year by a business entity;

(ii) is employed by a business entity at least 35 hours each week for at least 12 months before or during the taxable year for which the entity claims a credit;
(iii) spends at least 50 percent of the hours under item (ii) of this paragraph either in the focus area or on activities of the business entity resulting directly from its location in the focus area;

(iv) is hired by the business entity after the later of:

1. the date on which the focus area is designated; or

2. The date on which the business entity located in the focus area; [and]

(V) IS HIRED BY THE BUSINESS ENTITY BEFORE JULY 1, 2021; AND

[(v)] (VI) earns at least 150 percent of the federal minimum wage.

(7) “Qualified employee” means an individual who:

(i) is a new employee or an employee rehired after being laid off for more than 1 year by a business entity;

(ii) is employed by a business entity at least 35 hours each week for at least 6 months before or during the taxable year for which the entity claims a credit;

(iii) spends at least 50% of the hours under item (ii) of this paragraph, either in the enterprise zone or on activities of the business entity resulting directly from its location in the enterprise zone;

(iv) earns at least 150% of the federal minimum wage; [and]

(v) is hired by the business entity after the later of:

1. the date on which the enterprise zone is designated; or

2. the date on which the business entity locates in the enterprise zone; AND

(VI) IS HIRED BY THE BUSINESS ENTITY BEFORE JULY 1, 2021.

(b) (1) Any business entity that is located in an enterprise zone and satisfies the requirements of § 5–707 of the Economic Development Article may claim a credit only against the State income tax for the wages specified in subsections (c) and (d) of this section that are paid in the taxable year for which the entity claims the credit.

(2) A business entity that is located in a focus area and satisfies the
requirements of § 5–707 of the Economic Development Article may claim a credit only
against the State income tax for the wages specified in subsection (e) of this section that
are paid to a focus area employee in the taxable year for which the entity claims the credit.

(3) An organization that is exempt from taxation under § 501(c)(3) or (4) of
the Internal Revenue Code may apply the credit under this section as a credit against
income tax due on unrelated business taxable income as provided under §§ 10–304 and
10–812 of this title.

(c) If a business entity does not claim an enhanced tax credit under subsection (e)
of this section for a focus area employee, for the taxable year in which a business entity
satisfies the requirements of § 5–707 or § 5–1406 of the Economic Development Article, a
credit is allowed that equals:

(1) up to $3,000 of the wages paid to each qualified employee who:

(i) is an economically disadvantaged individual; and

(ii) is not hired to replace an individual whom the business entity
employed in that or any of the 3 preceding taxable years; and

(2) up to $1,000 of the wages paid to each qualified employee who:

(i) is not an economically disadvantaged individual; and

(ii) is not hired to replace an individual whom the business entity
employed in that or any of the 3 preceding taxable years.

(d) (1) If a business entity does not claim an enhanced tax credit under
subsection (e) of this section for a focus area employee, for each taxable year after the
taxable year described in subsection (c) of this section, while the area is designated an
enterprise zone, a credit is allowed that equals:

(i) up to $3,000 of the wages paid to each qualified employee who:

1. is an economically disadvantaged individual;

2. became a qualified employee during the taxable year to
which the credit applies; and

3. is not hired to replace an individual whom the business
entity employed in that or any of the 3 preceding taxable years;

(ii) up to $2,000 of the wages paid to each qualified employee who is
an economically disadvantaged individual, if the business entity received a credit under
subsection (c)(1) of this section for the qualified employee in the immediately preceding
taxable year; and
up to $1,000 of the wages paid to each qualified employee who is not hired to replace an individual whom the business entity employed in that or any of the 3 preceding taxable years if the qualified employee:

1. is an economically disadvantaged individual for whom the business entity received a credit under subsection (c)(1) of this section or item (i) of this paragraph and a credit under item (ii) of this paragraph in the 2 immediately preceding taxable years; or

2. is not an economically disadvantaged individual but became a qualified employee during the taxable year to which the credit applies.

A business entity that hires a qualified employee to replace another qualified employee for whom the business entity received a credit under subsection (c)(1) of this section and paragraph (1)(ii) of this subsection in the immediately preceding taxable year may treat the new qualified employee as the replacement for the other qualified employee to determine any credit that may be available to the business entity under paragraph (1)(ii) or (iii) of this subsection.

For the taxable year in which a business entity satisfies the requirements of §§ 5–706 and 5–707 or § 5–1406 of the Economic Development Article, a credit is allowed that equals:

(i) up to $4,500 of the wages paid to each focus area employee who:

1. is an economically disadvantaged individual; and

2. is not hired to replace an individual whom the business entity employed in that year or any of the 3 preceding taxable years; and

(ii) up to $1,500 of the wages paid to each focus area employee who:

1. is not an economically disadvantaged individual; and

2. is not hired to replace an individual whom the business entity employed in that year or any of the 3 preceding taxable years.

For each taxable year after the taxable year described in paragraph (1) of this subsection, while the area is designated a focus area, a credit is allowed that equals:

(i) up to $4,500 of the wages paid to each focus area employee who:

1. is an economically disadvantaged individual; and

(ii) up to $1,500 of the wages paid to each focus area employee who:

1. became a focus area employee during the taxable year to which the credit applies; and
3. is not hired to replace an individual whom the business entity employed in that year or any of the 3 preceding taxable years;

(ii) up to $3,000 of the wages paid to each focus area employee who is an economically disadvantaged individual, if the business entity received a credit under paragraph (1)(i) of this subsection for the focus area employee in the immediately preceding taxable year; and

(iii) up to $1,500 of the wages paid to each focus area employee who is not hired to replace an individual whom the business entity employed in that year or any of the 3 preceding taxable years if the focus area employee:

1. is an economically disadvantaged individual for whom the business entity received a credit under item (ii) of this paragraph in the 2 immediately preceding taxable years and under:

A. paragraph (1)(i) of this subsection; or

B. item (i) of this paragraph; or

2. is not an economically disadvantaged individual but became a focus area employee during the taxable year to which the credit applies.

(3) A business entity that hires a focus area employee to replace another focus area employee for whom the business entity received a credit under paragraph (1)(i) of this subsection and paragraph (2)(ii) of this subsection in the immediately preceding taxable year may treat the focus area employee as the replacement for the other focus area employee to determine any credit that may be available to the business entity under paragraph (2)(ii) or (iii) of this subsection.

(f) If the credit allowed under this section in any taxable year exceeds the State income tax for that taxable year, a business entity may apply the excess as a credit against the State income tax for succeeding taxable years until the earlier of:

(1) the full amount of the excess is used; or

(2) the expiration of the 5th taxable year from the date on which the business entity hired the qualified employee to whom the credit first applies.

(g) If a credit is claimed under this section, the claimant must make the addition required in § 10–205, § 10–206, or § 10–306 of this title.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall be applicable to all taxable years beginning after December 31, 2020.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July
1  1, 2021.