

HOUSE BILL 805

C8, Q3

1lr2211

By: **Delegate Palakovich Carr**

Introduced and read first time: January 29, 2021

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Economic Development – Enterprise Zone Program – Alterations**

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

25 BY repealing and reenacting, with amendments,
26 Article – Economic Development
27 Section 5–704(a)(1) and (4) and (b), 5–705, and 5–709
28 Annotated Code of Maryland
29 (2018 Replacement Volume and 2020 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, without amendments,
 2 Article – Economic Development
 3 Section 5–707(a)
 4 Annotated Code of Maryland
 5 (2018 Replacement Volume and 2020 Supplement)

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

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

13 **Article – Economic Development**

14 5–704.

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

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

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

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

26 (4) The Secretary:

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

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

33 (b) (1) Within 60 days after a submission date, the Secretary may designate
 34 one or more enterprise zones from among the areas described in the applications timely

1 submitted.

2 (2) The designation of an area as an enterprise zone is effective for 10
3 years.

4 (3) **[The] SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, THE**
5 Secretary may not designate more than six enterprise zones in a calendar year.

6 (4) **IF THE AGGREGATE AMOUNT OF PROPERTY TAX CREDITS**
7 **CLAIMED UNDER § 9-103 OF THE TAX – PROPERTY ARTICLE FOR THE IMMEDIATELY**
8 **PRECEDING FISCAL YEAR EXCEEDED \$50,000,000 OR FOR THE CURRENT FISCAL**
9 **YEAR MAY BE REASONABLY EXPECTED BY THE DEPARTMENT TO EXCEED**
10 **\$50,000,000, THE SECRETARY MAY NOT DESIGNATE A NEW ENTERPRISE ZONE**
11 **DURING THE CURRENT FISCAL YEAR.**

12 **[(4)] (5)** A county may not receive more than two enterprise zones in a
13 calendar year.

14 5-705.

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

18 (2) **[The] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,**
19 **THE** Secretary may grant an expansion of an enterprise zone into an area that meets the
20 requirements of § 5-704 of this subtitle.

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

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

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

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

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

29 (ii) in the determination of the Secretary, has suffered a significant
30 loss of economic base **OR MERITS INCLUSION IN AN ENTERPRISE ZONE FOR A**
31 **COMPELLING ECONOMIC REASON.**

32 (2) For purposes of § 5-704(b) of this subtitle, an extraordinary expansion

1 of an enterprise zone does not count towards the limit on the number of enterprise zones
2 that:

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

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

5 **(C) IF THE AGGREGATE AMOUNT OF PROPERTY TAX CREDITS CLAIMED**
6 **UNDER § 9-103 OF THE TAX – PROPERTY ARTICLE FOR THE IMMEDIATELY**
7 **PRECEDING FISCAL YEAR EXCEEDED \$50,000,000 OR FOR THE CURRENT FISCAL**
8 **YEAR MAY BE REASONABLY EXPECTED BY THE DEPARTMENT TO EXCEED**
9 **\$50,000,000, THE SECRETARY MAY NOT GRANT AN EXPANSION OF AN EXISTING**
10 **ENTERPRISE ZONE DURING THE CURRENT FISCAL YEAR.**

11 5-707.

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

13 (1) the special property tax credit in § 9-103 of the Tax – Property Article;

14 (2) the income tax credits in § 10-702 of the Tax – General Article; and

15 (3) consideration for financial assistance from programs in Subtitle 1 of
16 this title.

17 5-709.

18 (a) The Department and the [Comptroller] **STATE DEPARTMENT OF**
19 **ASSESSMENTS AND TAXATION** jointly shall assess each year the effectiveness of the tax
20 credits provided to business entities in enterprise zones and focus areas in enterprise zones,
21 including:

22 (1) the number and amounts of credits granted each year; and

23 (2) the success of the tax credits in attracting and retaining business
24 entities in enterprise zones and focus areas.

25 **(B) (1) (I) ON OR BEFORE SEPTEMBER 15 EACH YEAR, EACH COUNTY**
26 **WITHIN WHICH AN ENTERPRISE ZONE IS LOCATED SHALL SUBMIT TO THE**
27 **DEPARTMENT AND THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION A**
28 **DETAILED REPORT ON EACH ENTERPRISE ZONE IN THE COUNTY TO ASSIST THE**
29 **DEPARTMENT AND THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION IN**
30 **THE ASSESSMENT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION.**

31 **(II) THE COUNTY SHALL INCLUDE IN THE REPORT REQUIRED**
32 **UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH THE FOLLOWING INFORMATION**

1 FOR THE IMMEDIATELY PRECEDING FISCAL YEAR:

2 1. THE NUMBER OF PROPERTIES FOR WHICH THE
3 PROPERTY TAX CREDIT UNDER § 9-103 OF THE TAX – PROPERTY ARTICLE WAS
4 CLAIMED;

5 2. THE NUMBER OF NEW APPLICATIONS SUBMITTED FOR
6 THE PROPERTY TAX CREDIT UNDER § 9-103 OF THE TAX – PROPERTY ARTICLE;

7 3. THE NUMBER OF NEW APPLICATIONS APPROVED FOR
8 THE PROPERTY TAX CREDIT UNDER § 9-103 OF THE TAX – PROPERTY ARTICLE; AND

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

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

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

21 (C) THE DEPARTMENT AND THE STATE DEPARTMENT OF ASSESSMENTS
22 AND TAXATION SHALL JOINTLY DEVELOP FORMAL METRICS AND A FRAMEWORK
23 FOR ANALYZING:

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

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

27 [(b)] (D) On or before December 15 of each year, the Department and the
28 [Comptroller] STATE DEPARTMENT OF ASSESSMENTS AND TAXATION shall submit to
29 the Governor and, in accordance with § 2-1257 of the State Government Article, the
30 General Assembly a report outlining the findings of the Department and the [Comptroller]
31 STATE DEPARTMENT OF ASSESSMENTS AND TAXATION and any other information of
32 value in determining the effectiveness of the tax credits provided under § 5-707(b) of this
33 subtitle.

1 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
2 as follows:

3 **Article – Tax – General**

4 10–702.

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

6 (2) (i) “Business entity” means:

7 1. a person conducting or operating a trade or business; or

8 2. an organization that is exempt from taxation under §
9 501(c)(3) or (4) of the Internal Revenue Code.

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

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

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

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

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

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

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

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

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

30 (ii) is employed by a business entity at least 35 hours each week for
31 at least 12 months before or during the taxable year for which the entity claims a credit;

1 (iii) spends at least 50 percent of the hours under item (ii) of this
 2 paragraph either in the focus area or on activities of the business entity resulting directly
 3 from its location in the focus area;

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

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

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

8 **(v) IS HIRED BY THE BUSINESS ENTITY BEFORE JULY 1, 2021;**

9 **AND**

10 ~~[(v)]~~ **(vi)** earns at least 150 percent of the federal minimum wage.

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

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

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

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

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

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

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

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

24 **(vi) IS HIRED BY THE BUSINESS ENTITY BEFORE JULY 1, 2021.**

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

29 (2) A business entity that is located in a focus area and satisfies the

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

4 (3) An organization that is exempt from taxation under § 501(c)(3) or (4) of
5 the Internal Revenue Code may apply the credit under this section as a credit against
6 income tax due on unrelated business taxable income as provided under §§ 10–304 and
7 10–812 of this title.

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

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

13 (i) is an economically disadvantaged individual; and

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

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

17 (i) is not an economically disadvantaged individual; and

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

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

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

25 1. is an economically disadvantaged individual;

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

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

30 (ii) up to \$2,000 of the wages paid to each qualified employee who is
31 an economically disadvantaged individual, if the business entity received a credit under
32 subsection (c)(1) of this section for the qualified employee in the immediately preceding
33 taxable year; and

1 (iii) up to \$1,000 of the wages paid to each qualified employee who is
2 not hired to replace an individual whom the business entity employed in that or any of the
3 3 preceding taxable years if the qualified employee:

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

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

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

16 (e) (1) For the taxable year in which a business entity satisfies the
17 requirements of §§ 5-706 and 5-707 or § 5-1406 of the Economic Development Article, a
18 credit is allowed that equals:

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

20 1. is an economically disadvantaged individual; and

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

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

24 1. is not an economically disadvantaged individual; and

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

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

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

30 1. is an economically disadvantaged individual;

31 2. became a focus area employee during the taxable year to
32 which the credit applies; and

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

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

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

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

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

14 B. item (i) of this paragraph; or

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

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

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

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

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

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

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

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

1 1, 2021.