

SENATE BILL 186

C8, Q3

(PRE-FILED)

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CF 11r0115

By: **Chair, Budget and Taxation Committee (By Request – Departmental – Commerce)**

Requested: October 22, 2020

Introduced and read first time: January 13, 2021

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 14, 2021

CHAPTER _____

1 AN ACT concerning

2 **Economic Development – Job Creation Tax Credit – Credit for Hiring Veterans**

3 FOR the purpose of expanding eligibility under the job creation tax credit program
4 administered by the Department of Commerce to include certain small businesses
5 that hire at least a certain number of qualified veteran employees; providing for the
6 calculation of the credit for qualified business entities that hire qualified veteran
7 employees under certain circumstances; requiring the Department, upon application
8 by a small business, to certify the small business as a qualified business entity under
9 certain circumstances; requiring the application to contain certain information;
10 prohibiting a small business from claiming the credit under certain circumstances;
11 extending the termination date applicable to the program; repealing provisions of
12 law authorizing an income tax credit for wages paid to qualified veteran employees;
13 defining certain terms; providing for the application of this Act; and generally
14 relating to the job creation tax credit program and the income tax credit for wages
15 paid to qualified veteran employees in the State.

16 BY repealing and reenacting, with amendments,
17 Article – Economic Development
18 Section 6–301, 6–303, 6–304(b), 6–305, and 6–309(a)
19 Annotated Code of Maryland
20 (2018 Replacement Volume and 2020 Supplement)

21 BY repealing

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Tax – General
2 Section 10–743
3 Annotated Code of Maryland
4 (2016 Replacement Volume and 2020 Supplement)

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

7 **Article – Economic Development**

8 6–301.

9 (a) In this subtitle the following words have the meanings indicated.

10 (b) “Credit year” means the taxable year in which a qualified business entity
11 claims the credit allowed in accordance with § 6–304(a) of this subtitle.

12 (c) (1) “Qualified business entity” means a person conducting or operating a
13 trade or business in the State that is certified in accordance with § 6–303 of this subtitle as
14 qualifying for the tax credit under this subtitle.

15 (2) For a person engaged in a business activity described in [§
16 6–303(b)(2)(xiii)] **§ 6–303(B)(1)(II)13** of this subtitle, “qualified business entity”:

17 (i) includes a person owning or operating the multi–use facility in
18 which the entertainment, recreation, cultural, or tourism–related activities are operated;
19 and

20 (ii) does not include any separate entity that leases retail space at
21 the facility.

22 (d) (1) “Qualified position” means a position that:

23 (i) is full–time and of indefinite duration;

24 (ii) pays at least 120% of the State minimum wage;

25 (iii) is located in the State;

26 (iv) is newly created as a result of the establishment or expansion of
27 a business facility in a single location in the State; and

28 (v) is filled.

29 (2) “Qualified position” does not include a position that is:

1 (i) created when an employment function is shifted from an existing
2 business facility of a business entity in the State to another business facility of the same
3 business entity if the position is not a net new job in the State;

4 (ii) created through a change in ownership of a trade or business;

5 (iii) created through a consolidation, merger, or restructuring of a
6 business entity if the position is not a net new job in the State;

7 (iv) created when an employment function is contractually shifted
8 from an existing business entity to another business entity in the State if the position is
9 not a net new job in the State; or

10 (v) filled for a period of less than 12 months.

11 (3) For a person engaged in a business activity described in [§
12 6–303(b)(2)(xiii)] **§ 6–303(B)(1)(II)13** of this subtitle, “qualified position” does not include
13 any position other than a position engaged in:

14 (i) the operation of entertainment, recreation, cultural, or
15 tourism–related activities within the multi–use facility; or

16 (ii) management, marketing, building maintenance, hotel services,
17 or security for the multi–use facility.

18 **(E) “QUALIFIED VETERAN EMPLOYEE” MEANS AN INDIVIDUAL WHO:**

19 **(1) IS HONORABLY DISCHARGED OR RELEASED UNDER HONORABLE**
20 **CIRCUMSTANCES FROM ACTIVE MILITARY, NAVAL, OR AIR SERVICE AS DEFINED IN**
21 **38 U.S.C. § 101; AND**

22 **(2) IS A QUALIFIED VETERAN AS DEFINED UNDER § 51(D)(3)(A) OF**
23 **THE INTERNAL REVENUE CODE FOR PURPOSES OF THE FEDERAL WORK**
24 **OPPORTUNITY TAX CREDIT.**

25 **[(e)] (F) “Revitalization area” means:**

26 (1) an enterprise zone designated by the Secretary under § 5–704 of this
27 article;

28 (2) an enterprise zone designated by the United States government under
29 42 U.S.C. §§ 11501 through 11505;

30 (3) an empowerment zone or enterprise community designated by the
31 United States government under 26 U.S.C. §§ 1391 through 1397F; or

1 (4) a sustainable community, as defined in § 6–301 of the Housing and
2 Community Development Article.

3 (G) “SMALL BUSINESS” MEANS AN INDIVIDUAL, A PARTNERSHIP, A LIMITED
4 PARTNERSHIP, A LIMITED LIABILITY PARTNERSHIP, A LIMITED LIABILITY
5 COMPANY, OR A CORPORATION THAT EMPLOYS 50 OR FEWER TOTAL FULL–TIME
6 EMPLOYEES.

7 [(f)] (H) “State priority funding area” means:

8 (1) a municipal corporation;

9 (2) Baltimore City;

10 (3) a sustainable community, as defined in § 6–301 of the Housing and
11 Community Development Article;

12 (4) an enterprise zone designated by the Secretary under § 5–704 of this
13 article;

14 (5) an enterprise zone designated by the United States government under
15 42 U.S.C. §§ 11501 through 11505;

16 (6) those areas of the State located between Interstate Highway 495 and
17 the District of Columbia;

18 (7) those areas of the State located between Interstate Highway 695 and
19 Baltimore City;

20 (8) any area in a county designated by the county as a priority funding area
21 under § 5–7B–03(c) of the State Finance and Procurement Article;

22 (9) that portion of the Port Land Use Development Zone, as defined in §
23 6–501 of the Transportation Article, that has been designated as an area appropriate for
24 growth in a county comprehensive master plan; and

25 (10) a qualified opportunity zone designated under § 1400Z–1 of the Internal
26 Revenue Code in Allegany County, Garrett County, Somerset County, or Wicomico County.
27 6–303.

28 (a) (1) The Secretary or the Secretary’s designee shall certify a person as a
29 qualified business entity if the person meets the requirements of this section.

30 (2) A person may not be certified as a qualified business entity **UNDER**
31 **SUBSECTION (B)(1) OF THIS SECTION** unless the person notifies the Department of its

1 intent to seek certification before hiring any qualified employees to fill the qualified
2 positions necessary to meet the requirements of subsection [(b)(1)] **(B)(1)(I)** of this section.

3 (b) To be eligible for a tax credit under this subtitle[,]:

4 **(1)** a person shall establish or expand a business facility in the State that:

5 [(1)] **(I)** during any 24-month period creates at least:

6 [(i)] **1.** 60 qualified positions;

7 [(ii)] **2.** 25 qualified positions if the business facility established or
8 expanded is located in a State priority funding area; or

9 [(iii)] **3.** 10 qualified positions in a county with:

10 [1.] **A.** an annual average employment that is less than
11 75,000; or

12 [2.] **B.** a median household income that is less than
13 two-thirds of the statewide median household income; and

14 [(2)] **(II)** is primarily engaged in:

15 [(i)] **1.** manufacturing or mining;

16 [(ii)] **2.** transportation or communications;

17 [(iii)] **3.** agriculture, forestry, or fishing;

18 [(iv)] **4.** research, development, or testing;

19 [(v)] **5.** biotechnology;

20 [(vi)] **6.** computer programming, information technology, or other
21 computer-related services;

22 [(vii)] **7.** central services for a business entity engaged in financial
23 services, real estate services, or insurance services;

24 [(viii)] **8.** the operation of central administrative offices;

25 [(ix)] **9.** the operation of a company headquarters other than the
26 headquarters of a professional sports organization;

1 [(x)] 10. the operation of a public utility;

2 [(xi)] 11. warehousing;

3 [(xii)] 12. business services, if the business facility established or
4 expanded is located in a State priority funding area; or

5 [(xiii)] 13. entertainment, recreation, cultural, or
6 tourism-related activities in a multi-use facility located within a revitalization area if the
7 facility:

8 [1.] A. generates a minimum of 1,000 new full-time
9 equivalent filled positions in a 24-month period; and

10 [2.] B. is not primarily used by a professional sports
11 franchise or for gaming; OR

12 **(2) A SMALL BUSINESS SHALL HIRE ~~IN THE CREDIT YEAR~~ AT LEAST**
13 **ONE QUALIFIED VETERAN EMPLOYEE FOR A FULL-TIME POSITION IN THE STATE.**

14 (c) (1) To be certified as a qualified business entity for a tax credit under [this
15 subtitle] **SUBSECTION (B)(1) OF THIS SECTION**, a person shall submit to the Department
16 an application that specifies:

17 [(1)] (I) the effective date of the start-up or expansion;

18 [(2)] (II) the number of full-time employees existing before the start-up
19 or expansion and the payroll of the existing employees;

20 [(3)] (III) the number of qualified positions created and qualified
21 employees hired and the payroll of the new qualified employees; and

22 [(4)] (IV) any other information that the Department requires by
23 regulation.

24 **(2) TO BE CERTIFIED AS A QUALIFIED BUSINESS ENTITY FOR A TAX**
25 **CREDIT UNDER SUBSECTION (B)(2) OF THIS SECTION, A SMALL BUSINESS SHALL**
26 **SUBMIT TO THE DEPARTMENT AN APPLICATION THAT SPECIFIES:**

27 (I) THE NAME OF THE SMALL BUSINESS;

28 (II) INFORMATION IDENTIFYING THE NAME AND DATE OF HIRE
29 OF THE QUALIFIED VETERAN EMPLOYEE;

1 **(III) PROOF OF THE WAGES PAID TO THE QUALIFIED VETERAN**
2 **EMPLOYEE; AND**

3 **(IV) ANY OTHER INFORMATION THAT THE DEPARTMENT**
4 **REQUIRES BY REGULATION.**

5 (d) When determining whether a business facility is engaged in a qualifying
6 activity described in subsection [(b)(2)] **(B)(1)(II)** of this section, the Department shall
7 consider the definitions set forth in the North American Industry Classification System.

8 (e) The Department may require that any information provided under subsection
9 (c) of this section be verified by the Maryland Department of Labor.

10 6-304.

11 (b) (1) Except as provided in this section, the credit earned under this section
12 **BY A QUALIFIED BUSINESS ENTITY UNDER § 6-303(B)(1) OF THIS SUBTITLE:**

13 (i) for qualified employees **WHO ARE NOT QUALIFIED VETERAN**
14 **EMPLOYEES** working in a facility not located in a revitalization area, is \$3,000 multiplied
15 by the number of **THOSE** qualified employees employed by the qualified business entity
16 during the credit year; [and]

17 (ii) for qualified employees **WHO ARE NOT QUALIFIED VETERAN**
18 **EMPLOYEES** working in a facility located in a revitalization area, is \$5,000 multiplied by
19 the number of **THOSE** qualified employees employed by the qualified business entity during
20 the credit year;

21 **(III) FOR QUALIFIED EMPLOYEES WHO ARE QUALIFIED VETERAN**
22 **EMPLOYEES WORKING IN A FACILITY NOT LOCATED IN A REVITALIZATION AREA, IS**
23 **\$4,000 MULTIPLIED BY THE NUMBER OF QUALIFIED VETERAN EMPLOYEES**
24 **EMPLOYED BY THE QUALIFIED BUSINESS ENTITY DURING THE CREDIT YEAR; AND**

25 **(IV) FOR QUALIFIED EMPLOYEES WHO ARE QUALIFIED VETERAN**
26 **EMPLOYEES WORKING IN A FACILITY LOCATED IN A REVITALIZATION AREA, IS**
27 **\$6,000 MULTIPLIED BY THE NUMBER OF QUALIFIED VETERAN EMPLOYEES**
28 **EMPLOYED BY THE QUALIFIED BUSINESS ENTITY DURING THE CREDIT YEAR.**

29 **(2) (I) EXCEPT AS PROVIDED IN THIS SECTION AND SUBJECT TO**
30 **SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE CREDIT EARNED UNDER THIS**
31 **SECTION BY A SMALL BUSINESS UNDER § 6-303(B)(2) OF THIS SUBTITLE IS \$2,500**
32 **MULTIPLIED BY THE NUMBER OF QUALIFIED VETERAN EMPLOYEES EMPLOYED BY**
33 **THE SMALL BUSINESS DURING THE CREDIT YEAR.**

1 (II) A SMALL BUSINESS MAY NOT CLAIM THE CREDIT UNDER
2 THIS SECTION:

3 1. FOR MORE THAN FIVE QUALIFIED VETERAN
4 EMPLOYEES IN A CREDIT YEAR;

5 2. FOR A QUALIFIED VETERAN EMPLOYEE WHO IS HIRED
6 TO REPLACE A LAID-OFF EMPLOYEE OR AN EMPLOYEE WHO IS ON STRIKE; OR

7 3. FOR A QUALIFIED VETERAN EMPLOYEE WHO HAS
8 FILLED THE POSITION FOR LESS THAN 1 YEAR.

9 [(2)] (3) The credit earned by a qualified business entity under this
10 subtitle may not exceed \$1,000,000 for any credit year.

11 [(3)] (4) The total amount of credits certified by the Department for
12 qualified business entities in a taxable year may not exceed \$4,000,000.

13 6-305.

14 (a) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO A TAX CREDIT
15 CLAIMED BY A SMALL BUSINESS UNDER § 6-303(B)(2) OF THIS SUBTITLE.

16 (B) If, during any of the 3 years after the credit year, the number of qualified
17 positions of the qualified business entity falls more than 5% below the average number of
18 qualified positions that existed during the credit year on which the credit was computed,
19 the credit shall be recaptured as follows:

20 (1) the credit shall be recomputed and reduced by the percentage reduction
21 of the number of qualified employees;

22 (2) the recomputed credit shall be subtracted from the amount of credit
23 previously allowed; and

24 (3) the qualified business entity shall pay the difference as taxes payable
25 to the State for the taxable year in which the number of qualified positions falls more than
26 5% below the average number of qualified positions during the credit year.

27 [(b)] (C) If, during any of the 3 years after the credit year, the average number
28 of qualified positions falls below the applicable threshold number of positions required
29 under § 6-303(b)(1) of this subtitle, all credits earned shall be recaptured.

30 [(c)] (D) During the 3 taxable years after the credit year, a qualified business
31 entity shall provide any information required by the Department in regulation to verify
32 that the qualified business entity is not subject to subsection [(a) or] (b) OR (C) of this
33 section.

1 6–309.

2 (a) Subject to subsection (b) of this section, this subtitle and the tax credit
3 authorized under it shall terminate on January 1, [2022] 2027.

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

6 **Article – Tax – General**

7 [10–743.

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

9 (2) “Department” means the Department of Commerce.

10 (3) “Qualified veteran employee” means an individual who:

11 (i) is honorably discharged or released under honorable
12 circumstances from active military, naval, or air service as defined in 38 U.S.C. § 101; and

13 (ii) is a qualified veteran as defined under 26 U.S.C. § 51(d)(3)(A) for
14 purposes of the federal Work Opportunity Tax Credit.

15 (4) “Small business” means an individual, a partnership, a limited
16 partnership, a limited liability partnership, a limited liability company, or a corporation
17 that employs 50 or fewer full–time employees.

18 (b) Except as provided in subsection (d) of this section, a small business that hires
19 a qualified veteran employee may claim a credit against the State income tax in the amount
20 stated on the tax credit certificate issued under subsection (e) of this section for wages paid
21 to the qualified veteran employee.

22 (c) For each taxable year, for the wages paid to each qualified veteran employee,
23 a credit may not exceed 30% of up to the first \$6,000 of wages paid to the qualified veteran
24 employee during the first year of employment.

25 (d) A small business may not claim the credit under this section:

26 (1) for more than five qualified veteran employees in a taxable year; or

27 (2) for a qualified veteran employee who is hired to replace a laid–off
28 employee or an employee who is on strike.

29 (e) (1) On application by a small business, the Department shall issue a tax
30 credit certificate in the amount allowable under subsection (c) of this section for each

1 qualified veteran employee employed by the small business in a taxable year, subject to
2 subsection (d)(1) of this section.

3 (2) The application shall include:

4 (i) the name of the small business;

5 (ii) information identifying the name and date of hire of the qualified
6 veteran employee;

7 (iii) proof of the wages paid to the qualified veteran employee; and

8 (iv) any other information that the Department requires.

9 (3) The Department shall:

10 (i) approve all applications that qualify for a tax credit certificate
11 under this subsection on a first-come, first-served basis; and

12 (ii) notify the small business within 45 days after the receipt of the
13 application of the Department's approval or denial.

14 (4) For each taxable year, the total amount of the credit certificates that
15 may be issued by the Department under this section may not exceed \$500,000.

16 (f) On or before January 31 of each taxable year, the Department shall report to
17 the Comptroller on the tax credit certificates issued under this section during the prior
18 taxable year.

19 (g) The Department shall adopt regulations to:

20 (1) implement the provisions of this section; and

21 (2) specify criteria and procedures for application for, approval of, and
22 monitoring continuing eligibility for the tax credit under this section.]

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

25 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July
26 1, 2021, and shall be applicable to job creation tax credits certified after December 31, 2021.