HB 1258

Department of Legislative Services

Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1258 (Delegate Kipke)
Health and Government Operations

Health Enterprise Zones - Established (Restoring the Promise Act of 2021)

This bill (1) establishes a process for designation of "Health Enterprise Zones" (HEZs); (2) authorizes specified incentives for health care practitioners or community health workers (CHWs) practicing in HEZs; (3) establishes an HEZ Reserve Fund for specified purposes; (4) establishes mandated appropriations to the Waiting List Equity Fund (WLEF) for one year only (fiscal 2023) and the HEZ Reserve Fund beginning in fiscal 2023; and (5) redirects specified revenues from the sales and use tax (SUT) on alcoholic beverages to WLEF in fiscal 2023 only and the HEZ Reserve Fund beginning in fiscal 2023. **The bill takes effect July 1, 2021, and the tax credit provisions apply to all taxable years beginning after December 31, 2020.**

Fiscal Summary

State Effect: Special fund revenues increase by $112.0 million in FY 2023 and by $22.0 million annually thereafter; special fund expenditures increase by *up to* this amount, as reflected below and discussed later, assuming the mandated appropriations are made with special funds and more than the minimum required is appropriated to WLEF. General fund revenues decline by $112.0 million in FY 2023 and by $22.0 million annually thereafter, due to the redirection of SUT revenues. General fund expenditures increase by $370,100 in FY 2022 to hire staff and for one-time costs to alter the State income tax form; future years reflect ongoing staff costs. **This bill establishes mandated appropriations and a mandated distribution beginning in FY 2023.**

($ in millions)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
GF Revenue	$0	($112.0)	($22.0)	($22.0)	($22.0)
SF Revenue	$0	$112.0	$22.0	$22.0	$22.0
GF Expenditure	$0.4	$0.4	$0.4	$0.4	$0.4
SF Expenditure	$0	$112.0	$22.0	$22.0	$22.0
Net Effect	($0.4)	($112.4)	($22.4)	($22.4)	($22.4)

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

Local Effect: Revenues and expenditures may increase in local jurisdictions associated with application for and designation as an HEZ.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Health Enterprise Zones

"Health Enterprise Zone" means a contiguous geographic area that (1) demonstrates measurable and documented health disparities and poor health outcomes; (2) is small enough to allow for the incentives offered under the bill to have a significant impact on improving health outcomes and reducing health disparities, including racial, ethnic, geographic, and disability-related health disparities; and (3) is designated by the Secretary of Health, as specified. The purpose of establishing HEZs is to target State resources to specific areas of the State to reduce health disparities, improve health outcomes and access to primary care, promote prevention services, and reduce health care costs and hospital admissions and readmissions.

Designation of Health Enterprise Zones: To receive a designation as an HEZ, a nonprofit community-based organization, a nonprofit hospital, an institution of higher education, or a local government agency must apply to the Secretary of Health on behalf of the area to receive the designation. The application must contain specified plans and components.

In designating HEZs, the Secretary must consider geographic diversity, among other factors. Following receipt of all applications, the Secretary must report to the Senate Finance Committee and the House Health and Government Operations Committee on the names and geographic areas of applicants. The Secretary must give priority to applications that demonstrate specified factors. The decision to designate an HEZ is a final decision with a five-year term that may be renewed. However, the Secretary may revoke a designation as an HEZ for failure to meet specified objectives.

Reporting Requirements: By September 15 annually, each HEZ must submit a specified report. By December 15 annually, the Secretary must submit a specified report on HEZs.

Incentives for Health Care Practitioners and Community Health Workers

A health care practitioner or CHW that practices in an HEZ may receive (1) State income tax credits and (2) loan repayment assistance, as provided for in the application for

designation as an HEZ. A health care practitioner or CHW may also apply to the Secretary for a grant to defray the costs of capital or leasehold improvements to, or medical or dental equipment to be used in, an HEZ, as specified.

Health Enterprise Zone Reserve Fund

The special, nonlapsing fund consists of (1) $22.0 million annually beginning in fiscal 2023 from the revenues collected from the SUT on alcoholic beverages; (2) money appropriated in the State budget; (3) interest earnings; and (4) any other money from any other source. The Governor must include at least $22.0 million in the annual budget bill for the fund each year beginning in fiscal 2023.

The fund may be used only to (1) support areas designated as HEZs by providing grants or tax credits to specified entities to reduce health disparities, improve health outcomes, provide drug treatment and rehabilitation, and reduce health costs and hospital admissions and readmissions and (2) provide supplemental funding to the Maryland Department of Health (MDH) for specified behavioral health programs in the amount of $1.0 million for fiscal 2023 and $2.0 million for each fiscal year thereafter.

Income Tax Credits

A health care practitioner or CHW who practices health care in an HEZ may be eligible for a State income tax credit if the individual (1) demonstrates competency in cultural, linguistic, and health literacy; (2) accepts and provides care for patients enrolled in Medicaid and for uninsured patients; (3) undergoes approved training in antiracism and cultural competency; and (4) meets any other criteria established by the Secretary of Health.

Specified other entities that submit an HEZ application may also submit a request for certification of eligibility for certain State income tax credits on behalf of a health care practitioner or CHW.

If certified as eligible by the Secretary, a health care practitioner or CHW can claim a credit against the State income tax in an amount equal to 100% of the amount of the tax expected to be due from the health care practitioner or CHW from income derived from practice in the HEZ for the taxable year.

A health care practitioner or a community-based organization may additionally claim a refundable credit of $10,000 against the State income tax for hiring for a "qualified position" in the HEZ (as certified by the Secretary) for the taxable year. A health care practitioner or a community-based organization may create one or more qualified positions during any 24-month period. The refundable credit must be taken over a 24-month period,

with 50% of the credit amount allowed each year. If the qualified position is filled for a period of less than 24 months, the credit must be recaptured as specified.

Eligibility for these credits is limited by availability of budgeted funds for that purpose, as determined by the Secretary. Certificates of eligibility are subject to approval by the Secretary on a first-come, first-served basis, as determined in the Secretary's sole discretion.

The Secretary must certify to the Comptroller the applicability of the credits provided for each health care practitioner, CHW, or community-based organization and the amount of each credit assigned for each taxable year. The tax credits issued in any fiscal year may not exceed the amount provided in the State budget for that fiscal year. The Secretary, in consultation with the Comptroller, must adopt regulations to implement the tax credit.

Waiting List Equity Fund

The bill increases funding for WLEF in fiscal 2023 only, including the first $90.0 million in revenues from the SUT on alcoholic beverages. In addition, the Governor must include at least $68.0 million in the annual budget bill for the fund in fiscal 2023 only.

Sales and Use Tax on Alcoholic Beverages

The bill modifies the use of revenues collected from the SUT on alcoholic beverages. In fiscal 2023, (1) the first $90.0 million collected goes to WLEF; (2) the next $22.0 million collected goes to the HEZ Reserve Fund; (3) the remaining revenues continue to go to the general fund. Beginning in fiscal 2024, $22.0 million goes to the HEZ Reserve Fund and the remaining revenues go to the general fund.

Current Law: Chapter 3 of 2012, the Maryland Health Improvement and Disparities Reduction Act of 2012, established a process for designation of HEZs to target State resources to reduce health disparities, improve health outcomes, and reduce health costs and hospital admissions and readmissions in specific areas of the State. The Act authorized specified incentives for "Health Enterprise Zone practitioners" who practice in an HEZ, including tax credits against the State income tax. The HEZ initiative was funded with a $4.0 million annual appropriation through the Maryland Community Health Resources Commission. The Act terminated at the end of fiscal 2016.

Chapter 441 of 2018 established the State Community Health Worker Advisory Committee and required MDH to adopt regulations related to the training and certification of CHWs in the State. Certification of CHWs in Maryland is voluntary, and there is no fee to apply.

WLEF is administered by the Developmental Disabilities Administration (DDA) within MDH to provide community-based services to individuals eligible for but not receiving DDA services.

The SUT rate on the sale of an alcoholic beverage is 9%.

For additional information about health disparities, please see the **Appendix – Health Disparities**.

State Revenues:

General Fund

In fiscal 2023, the bill requires that $112.0 million in revenues from the SUT on alcoholic beverages be redirected from the general fund to special funds ($90.0 million to WLEF and $22.0 million to the HEZ Reserve Fund). Beginning in fiscal 2024, $22.0 million in revenues from the SUT on alcoholic beverages is annually redirected to the HEZ Reserve Fund. Revenues generated above these amounts are still credited to the general fund. Accordingly, general fund revenues decrease by $112.0 million in fiscal 2023 and by $22.0 million annually thereafter.

Special Funds – Maryland Department of Health

Special fund revenues for MDH increase by a total of $112.0 million in fiscal 2023 and by $22.0 million annually thereafter, as discussed below.

Health Enterprise Zones Reserve Fund: Special fund revenues for the HEZ Reserve Fund increase by $22.0 million annually beginning in fiscal 2023. This represents the $22.0 million in revenues from the SUT on alcoholic beverages, which is assumed to be the funding used to meet the mandated appropriation. (However, under an alternative interpretation, special fund revenues could total $44.0 million annually beginning in fiscal 2023: the $22.0 million from SUT revenues and an additional $22.0 million provided as a general fund mandated appropriation.) As noted below, a portion of this funding must be distributed for behavioral health programs each year.

Waiting List Equity Fund: Special fund revenues for WLEF increase by $90.0 million in fiscal 2023 only. This represents the $90.0 million in revenues from the SUT on alcoholic beverages, of which *at least* $68.0 million is assumed to be the funding used to meet the mandated appropriation. (However, under an alternative interpretation, special fund revenues could total $158.0 million in fiscal 2023: the $90.0 million from SUT revenues and another $68.0 million provided as a general fund mandated appropriation.)

Behavioral Health within the Maryland Department of Health: Special fund revenues for MDH increase by $1.0 million in fiscal 2023 and $2.0 million annually thereafter due to the required *distribution* from the HEZ Reserve Fund to provide supplemental funding for behavioral health programs. This funding is part of the $22.0 million noted above.

State Expenditures:

Maryland Department of Health General Fund Expenditures

General fund expenditures for MDH increase by *at least* $334,102 in fiscal 2022 for staffing costs to establish the HEZ program. Future years reflect only ongoing staffing costs, although as noted both above and below, general fund expenditures could be construed as necessary to meet the bill's mandated appropriations.

Mandated Appropriations: This analysis assumes that the mandated appropriations for both WLEF (in fiscal 2023 only) and the HEZ Fund (annually beginning in fiscal 2023) are met with SUT revenues directed to those special funds and that general fund expenditures are not needed. (Under an alternative interpretation of the bill's mandated appropriation for WLEF, due primarily to the amount being different from SUT revenues distributed to the fund, general fund expenditures totaling at least $68.0 million would be required in fiscal 2023. Likewise, under an alternative interpretation of the bill's mandated appropriation for the HEZ Fund, general fund expenditures totaling $22.0 million would be required annually beginning in fiscal 2023.)

Administration of Health Enterprise Zones Program: General fund expenditures increase by *at least* $334,102 in fiscal 2022, which assumes a 90-day start-up delay from the bill's effective date of July 1, 2021. This estimate reflects the cost of hiring five full-time and one part-time staff to develop and then implement the HEZ program, including three coordinators of special programs to create application processes, manage applications, complete assessments, and provide consultation to advisory groups; one epidemiologist to conduct research and analyze data necessary to designate HEZs; and one full-time and one part-time health policy analyst to provide grants and grant support to applicants. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	5.5
Salaries and Fringe Benefits	$300,860
One-time Start-up Expenses	30,540
Ongoing Operating Expenses	2,702
Total FY 2022 MDH Administrative Expenditures	**$334,102**

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses. Although these staff will be supporting the HEZ designation process and HEZ implementation, this analysis assumes general funds must be used for administrative expenses as the bill does not permit the use of special funds for this purpose.

Administration of Additional Funds to the Waiting List Equity Fund: MDH advises that DDA needs six additional full-time permanent staff to administer WLEF due to the additional funding for fiscal 2023. Despite the significantly enhanced funding available, the Department of Legislative Services (DLS) disagrees. MDH advises that, in fiscal 2020, 244 people came off the waiting list and started receiving DDA-funded services. DDA estimates that it will only be able to place 250 people annually in DDA-funded services. Thus, DLS advises that DDA can likely continue to administer WLEF with existing budgeted resources as (1) DDA currently administers WLEF; (2) the additional allocation of funds is for one year only; and (3) DDA plans to place approximately the same number of people in DDA-funded services in future years as it has in prior years.

Only the first year of placement receives funding from WLEF, after which a person's services are funded by a combination of general and federal funds. Thus, to the extent that additional placements are made beyond those that would have been made with existing funding, general/federal fund expenditures increase in subsequent years beginning in fiscal 2024.

Office of the Comptroller General Fund Expenditures

General fund expenditures for the Office of the Comptroller increase by $36,000 in fiscal 2022, which accounts for the bill's July 1, 2021 effective date. This estimate reflects the one-time-only cost to update Maryland tax forms to reflect the bill's two new tax credits. This analysis assumes general funds must be used for this expense as the bill does not permit the use of special funds for this purpose.

Special Fund Expenditures – Maryland Department of Health

Health Equity Zone Reserve Fund: Special fund expenditures increase by as much as $22.0 million in fiscal 2023, and annually thereafter, to support areas designated as HEZs by providing grants or tax credits and to provide supplemental funding for specified behavioral health programs ($1.0 million in fiscal 2023 and $2.0 million annually thereafter). Aside from the required distribution, actual expenditures cannot be reliably estimated at this time and will depend on, among other things, the number of HEZs certified and the number and value of incentives under the bill. Thus, this analysis of expenditures reflects the required annual appropriation.

To the extent that the bill's provisions reduce health care costs in HEZs, State expenditures may decline over time.

Waiting List Equity Fund: Special fund expenditures increase under the bill – by *as much as* $90.0 million in fiscal 2023, which assumes that the entire amount available to WLEF under the bill is appropriated (and potentially, but not likely, expended) in that year. The bill requires the Governor to appropriate *at least* $68.0 million to WLEF in fiscal 2023. If the minimum amount required were appropriated, rather than the total $90.0 million available from SUT revenues, $22.0 million would remain available for appropriation and expenditure in subsequent years. DLS also notes that amounts unexpended remain available in WLEF for future years. This analysis of expenditures reflects the need to *appropriate* the additional monies; however, DLS advises that *actual* expenditures are not likely to be materially changed, as discussed below.

Funds from WLEF may only pay for the first year of placement and may not be used to supplant funds for emergency placements or transitioning youth. DLS notes that, as of October 31, 2020, DDA recorded a total of 4,040 individuals on the community services waiting list across all priority categories, including emergency and transitioning youth placements for which WLEF cannot supplant existing funding. However, DDA advises that the available number of community-based service providers in which to place an eligible person limits its ability to place more than 250 people annually. DLS notes further that (1) WLEF revenues have outpaced expenditures since at least 2013, which has contributed to a growing special fund balance; (2) actual expenditures for fiscal 2020 were $4.7 million; and (3) WLEF closed fiscal 2020 with a $10.3 million balance. Thus, it is unlikely that any significant special fund expenditures will actually result from the additional allocations unless the statutorily permissible uses of funds from WLEF are expanded or more community-based service providers are identified. However, to the extent that additional placements do occur in fiscal 2023 and subsequent years, special fund expenditures increase.

Small Business Effect: Health care practitioners and CHWs practicing in HEZs may receive State income tax credits and capital grants. Behavioral health providers may receive additional funding under the bill's mandated supplemental funding distribution.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Maryland Association of County Health Officers; Montgomery County; Comptroller's Office; Maryland Higher Education Commission; University System of Maryland; Morgan State University; Maryland Department of Health; Department of Legislative Services

Fiscal Note History: First Reader - February 28, 2021
rh/jc

Analysis by: Amber R. Gundlach

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

Appendix – Health Disparities

Racial and ethnic minorities are more likely to experience poor health outcomes as a consequence of their social determinants of health, including access to health care, education, employment, economic stability, housing, public safety, and neighborhood and environmental factors. A broad body of research has quantified the existence of health disparities between Black, Hispanic, and Native American individuals and their White counterparts, including a greater risk of heart disease, stroke, infant mortality, maternal mortality, lower birth weight, obesity, hypertension, type 2 diabetes, cancers, respiratory diseases, and autoimmune diseases.

Health Disparities in Maryland

Data consistently shows ongoing and in some cases growing health disparities in Maryland, including the impact of COVID-19, maternal and infant mortality, incidence of HIV, and emergency room (ER) visits for substance use, asthma, diabetes, and hypertension. For example:

- While Black individuals comprise 29.8% of the Maryland population, they represent 36% of COVID-19 deaths as of January 18, 2021.
- Maryland's maternal mortality rate for Black women is 3.7 times that of White women, and the racial disparity has widened in recent years.
- Maryland's infant mortality rate for all races/ethnicities has remained level but remains highest (10.2 per 1,000 in 2018) among the Black non-Hispanic population, nearly 2.5 times higher than the rate for the White non-Hispanic population.
- The incidence of HIV for all races/ethnicities has generally declined in Maryland; although the incidence among the Black non-Hispanic population (49.0 per 100,000) remains 2.4 times that of the total population.
- In 2017, ER visits for the Black non-Hispanic population compared with all races/ethnicities were 50% higher for substance use disorder; nearly 200% higher for asthma-related ER visits; 86% higher for diabetes-related ER visits; and 89% higher for hypertension-related ER visits.

Maryland Office of Minority Health and Health Disparities

A central effort to address health disparities in Maryland was the establishment of the Office of Minority Health and Health Disparities (OMHHD) in the Maryland Department

of Health (MDH) in 2004. The purpose of the office is to address social determinants of health and eliminate health disparities by leveraging resources, providing health equity consultation, impacting external communications, guiding policy decisions, and influencing strategic direction on behalf of the Secretary of Health. The office provides grants and technical assistance to community-based organizations, collects data on race and ethnicity, and targets programs and initiatives to three health conditions that disproportionately impact minorities in Maryland: infant mortality, asthma, and diabetes/prediabetes. The office's Minority Outreach and Technical Assistance Program provides grant funding for activities such as coordination and navigation of health care services, access to community-based health education, linkage to health insurance enrollment and social services, and self-management support through home visiting. In 2006 and 2010, the office prepared a *Maryland Plan to Eliminate Minority Health Disparities*.

Other Major Efforts to Address Health Disparities Since 2004

In January 2010, the Maryland Health Care Commission (MHCC) and OMHHD produced a *Health Care Disparities Policy Report Card*. The report card examined racial and ethnic distribution of Maryland physicians compared to the Maryland population and found that Black/African American, Hispanic/Latino, and American Indians/Native Americans were underrepresented in the physician workforce and in graduating classes from Maryland medical schools.

Other legislative efforts to address health disparities have focused on workforce development for health care providers, including convening a Workgroup on Cultural Competency and Workforce Development for Mental Health Professionals; establishing a Cultural and Linguistic Health Care Provider Competency Program; facilitating the workforce development, training, and certification of community health workers; requiring health occupations boards to report on efforts to educate regulated individuals regarding reducing and eliminating racial and ethnic disparities, improving health literacy, improving cultural and linguistic competency, and achieving racial and ethnic health equity; and requiring evidence-based implicit bias training for perinatal health care professionals.

In recent years, legislative initiatives regarding health disparities have focused on maternal and child health, including requiring a study on the mortality rates of African American infants and infants in rural areas, requiring MDH to establish a Maternal Mortality Stakeholder Group to examine issues resulting in disparities in maternal deaths, and requiring the Maternal Mortality Review Program to make recommendations to reduce disparities in the maternal mortality rate (including recommendations related to social determinants of health) and to include information on racial disparities in its annual report.

Senate President's Advisory Workgroup on Equity and Inclusion

In August 2020, the President of the Senate appointed a Senate workgroup to address environmental justice, health care disparities, and wealth and economic opportunity for minority Marylanders. The workgroup issued a report in January 2021, which includes recommendations relating to health disparities, including:

- requiring the director of OMHHD to meet with MHCC and MDH at least once annually to examine the collection of health data that includes race and ethnicity information and identify any changes for improving such data;

- requiring OMHHD to prepare an updated plan to eliminate minority health disparities and requiring MHCC to prepare a revised health care disparities policy report card;

- extending Medicaid coverage for pregnant women until 12 months postpartum and providing care coordination and health literacy education for individuals as they transition from Medicaid coverage;

- establishing a standing Maternal and Child Health Committee in MDH to develop a Blueprint for Maternal and Child Health;

- ensuring that all pregnant women receive comprehensive prenatal care by increasing awareness of and access to resources for all women, including establishing an emergency program that covers prenatal care for undocumented immigrants;

- assessing certified nurse midwife privileges in Maryland hospitals and developing recommendations with major stakeholders;

- establishing a Medicaid Doula Pilot Program in two counties;

- taking actions to increase the number of minority health care providers;

- requiring the Cultural and Linguistic Health Care Professional Competency Program to identify and approve implicit bias training programs for all individuals licensed and certified under the Health Occupations Article; and

- reestablishing the five health enterprise zones permanently.