May 28, 2021

The Honorable Adrienne A. Jones
Speaker of the Maryland House of Delegates
H–101 State House
Annapolis, MD 21401

The Honorable Bill Ferguson
President of the Maryland Senate
H–107 State House
Annapolis, MD 21401

Dear Madam Speaker and Mr. President:

With Maryland businesses emerging from a global pandemic and beginning on their road to recovery, it would be unconscionable to put our job creators at a competitive disadvantage by imposing tighter restrictions on eligibility for the Job Creation Tax Credit. For these reasons, and in accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 278 – *Economic Development – Job Creation Tax Credit – Qualified Position and Revitalization Area.*

The Maryland Job Creation Tax Credit has been an important incentive in Maryland's economic development efforts since 1996. Since many other states have a similar credit, including all of our neighboring states, Maryland needs to keep this credit as a meaningful incentive when competing against these states for job–creating projects. Business costs in Maryland are comparatively high, and this credit helps keep Maryland cost competitive.

All four neighboring states of Virginia, West Virginia, Pennsylvania, and Delaware have a similar tax credit for new job creation, but none have the extensive requirements outlined in House Bill 278. Depending on the type of business, higher costs could be attributed to real estate, wages, energy, taxes, or some combination thereof. The Job Creation Tax Credit helps mitigate some of Maryland's cost disadvantages versus the other states, which encourages businesses to look at the opportunity to invest in Maryland more positively and provide a greater chance for a favorable decision.

The lower job creation threshold in the rural counties and Baltimore City currently gives small businesses in these jurisdictions an advantage to qualify for the Job Creation Tax Credit – they can get the credit even though they create fewer jobs.

However, the changes in House Bill 278 could cause that advantage to disappear for many small businesses in these jurisdictions if they are not able to afford the additional requirements such as offering retirement benefits, or career advancement training.

The most concerning provision in House Bill 278 is that projects in certain industries may be priced out of the credit because of the increased wage requirement, even when they pay a competitive wage for their industry. The higher wage requirement of 150% of state minimum will disqualify certain employers that pay more modest wage rates. Some warehouse and distribution projects, for example, will not offer a wage of $20 an hour, which roughly equates to 150% of the minimum wage in 2023. The phased–in increase in the state minimum wage through 2025 combined with the requirement increasing the wage from 120% to 150% of the State minimum will render numerous valuable projects ineligible for Job Creation Tax Credit.

Additionally, many of the new benefits an employer must provide the employee for the position to meet the new definition are vague and create additional cost and administrative burden. House Bill 278 makes it extremely difficult to create “qualified positions” which are counted for the purposes of tax credit eligibility, therefore making it more difficult to qualify for Maryland’s incentive programs.

House Bill 278 will cause Maryland’s Job Creation Tax Credit to become underutilized, defeating its purpose. We need to support Maryland’s job creators, not impose burdensome restrictions on successful incentive programs that bring economic growth to our state.

For these reasons, I have vetoed House Bill 278.

Sincerely,

Lawrence J. Hogan, Jr.
Governor