

SENATE BILL 191

C8, Q3

2lr0046

(PRE-FILED)

By: **Chair, Finance Committee (By Request – Departmental – Commerce)**

Requested: October 14, 2021

Introduced and read first time: January 12, 2022

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Department of Commerce – Transparency and Efficiency in**
3 **Reporting Act**

4 FOR the purpose of altering the definition of “economic development program” for purposes
5 of certain data collection, tracking, and reporting requirements of the Maryland Jobs
6 Development Act to include certain tax credit programs; altering certain information
7 that the Department of Commerce is required to report; altering certain information
8 that the Department is required to make available on the Department’s website
9 relating to certain economic development programs; altering certain reporting
10 requirements relating to certain economic development programs and income tax
11 credits administered by the Department; and generally relating to the Maryland
12 Jobs Development Act and economic development programs administered by the
13 Department.

14 BY repealing and reenacting, with amendments,
15 Article – Economic Development
16 Section 2.5–109, 3–404(e), 5–419, 5–709, 5–1307, 5–1409, 5–1501(e), 6–307(a), and
17 6–809
18 Annotated Code of Maryland
19 (2018 Replacement Volume and 2021 Supplement)

20 BY repealing and reenacting, without amendments,
21 Article – Economic Development
22 Section 3–402, 5–406(a), 5–1501(a), 5–1602(a), and 6–802
23 Annotated Code of Maryland
24 (2018 Replacement Volume and 2021 Supplement)

25 BY repealing
26 Article – Economic Development
27 Section 5–1501(j) and 5–1606

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2018 Replacement Volume and 2021 Supplement)

3 BY adding to
4 Article – Economic Development
5 Section 5–1501(j) and 5–1606
6 Annotated Code of Maryland
7 (2018 Replacement Volume and 2021 Supplement)

8 BY repealing and reenacting, without amendments,
9 Article – Tax – General
10 Section 10–721(b)(1), 10–733(b)(1), and 10–733.1(b)(1)
11 Annotated Code of Maryland
12 (2016 Replacement Volume and 2021 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article – Tax – General
15 Section 10–721(g), 10–725(h), 10–730(e), 10–733(h), and 10–733.1(f)
16 Annotated Code of Maryland
17 (2016 Replacement Volume and 2021 Supplement)

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

20 **Article – Economic Development**

21 2.5–109.

22 (a) In this section, “economic development program” means:

23 (1) the Economic Development Opportunities Program Account
24 established under § 7–314 of the State Finance and Procurement Article;

25 (2) the Partnership for Workforce Quality Program established under Title
26 3, Subtitle 4 of this article;

27 (3) each of the economic development and financial assistance programs
28 established under Title 5 of this article; and

29 (4) each of the tax credit programs administered by the Department,
30 including:

31 (i) the Film Production Activity Tax Credit;

32 (ii) the Job Creation Tax Credit;

33 (iii) the One Maryland Economic Development Tax Credit;

- 1 (iv) the Biotechnology Investment Incentive Tax Credit;
- 2 (v) the Research and Development Tax Credit;
- 3 (vi) the Security Clearance Administrative Expenses and
4 Construction and Equipment Costs Tax Credit;
- 5 (vii) the Innovation Investment Incentive Tax Credit;
- 6 (viii) the More Jobs for Marylanders Tax Credit;
- 7 (ix) the Purchase of Cybersecurity Technology or Service Tax Credit;
- 8 (x) the Opportunity Zone Enhancement Tax Credit; [and]
- 9 (xi) the Small Business Relief Tax Credit; AND

10 (XII) ANY OTHER TAX CREDIT PROGRAM THAT IS ADMINISTERED
11 BY THE DEPARTMENT UNDER:

- 12 1. TITLE 6 OF THIS ARTICLE; OR
- 13 2. TITLE 10, SUBTITLE 7 OF THE TAX – GENERAL
14 ARTICLE.

15 (b) The Department shall compile data in accordance with this section on the
16 economic development programs administered by the Department.

17 (c) On or before December 31, 2013, and each year thereafter, the Department
18 shall submit a report on the economic development programs that were administered by
19 the Department during the previous fiscal year to the Governor and, in accordance with §
20 2–1257 of the State Government Article, the General Assembly.

21 (d) (1) The report required under this section shall include the following data,
22 if applicable, on the economic development programs administered by the Department:

- 23 (i) the number of jobs created;
- 24 (ii) the number of jobs retained;
- 25 (iii) the estimated amount of State revenue generated;
- 26 (iv) the status of any special fund;
- 27 (v) for minority business enterprises, as defined in § 14–301 of the

1 State Finance and Procurement Article:

2 1. the number of enterprises that received assistance from
3 each economic development program; and

4 2. the percentage of assistance distributed to each minority
5 business enterprise from each economic development program compared to the total
6 assistance distributed from each economic development program; [and]

7 **(VI) A STATEMENT INDICATING WHETHER, DURING THE**
8 **CURRENT REPORTING YEAR, THE DEPARTMENT REDUCED, REVOKED, OR**
9 **RECAPTURED A TAX CREDIT OR ANY AMOUNT OF FINANCIAL ASSISTANCE FROM A**
10 **RECIPIENT AND, IF APPLICABLE:**

11 **1. THE TOTAL AMOUNT RECOVERED AS A RESULT OF THE**
12 **REDUCTION, REVOCATION, OR RECAPTURE, AND ANY PENALTY ASSESSED; AND**

13 **2. A JUSTIFICATION FOR THE REDUCTION, REVOCATION,**
14 **OR RECAPTURE; AND**

15 **[(vi)] (VII)** any additional information required by the Department
16 through regulations.

17 (2) The report required under this section shall include data in the
18 aggregate and disaggregated by:

19 (i) each economic development program; and

20 (ii) each recipient of assistance from an economic development
21 program.

22 (3) The report required under this section shall include any additional
23 information required under the law authorizing the economic development program.

24 (e) [On or before December 31, 2020, in addition to the report required under
25 subsection (c) of this section, the] **THE** Department shall establish, maintain, and update
26 annually a publicly available database on the Department's website that:

27 (1) provides information that is downloadable by the public in a common
28 machine-readable format; and

29 (2) includes[:

30 (i) the name of each business entity that is a recipient of an
31 economic development program;

1 (ii) the total amount of tax credits certified, financial assistance
2 paid, and loans forgiven or uncollectible by the Department, reported in the aggregate for
3 each economic development program and each recipient of the tax credit or financial
4 assistance;

5 (iii) 1. for any tax credit or financial assistance that is certified
6 or paid by the Department to incentivize job creation or retention:

7 A. the number of jobs each recipient of the credit or
8 assistance claimed it would create or retain in its application for the credit or assistance;

9 B. the number of jobs actually created or retained by each
10 recipient; and

11 C. the average salary of the jobs created or retained by each
12 recipient; and

13 2. for any tax credit or amount of financial assistance that is
14 certified or awarded by the Department to incentivize activities other than job creation or
15 retention, a description of how the credit or assistance benefits the State; and

16 (iv) a statement indicating whether, during the current reporting
17 year, the Department reduced, revoked, or recaptured a tax credit or any amount of
18 financial assistance from a recipient and, if applicable:

19 1. the total amount recovered as a result of the reduction,
20 revocation, or recapture, and any penalty assessed; and

21 2. a justification for the reduction, revocation, or recapture]
22 **DATA REPORTED IN CONNECTION WITH THE ECONOMIC DEVELOPMENT PROGRAMS**
23 **ADMINISTERED BY THE DEPARTMENT AS REQUIRED UNDER THE PROVISIONS OF**
24 **THIS SECTION.**

25 (f) If a recipient of assistance from an economic development program is not
26 meeting the requirements of the economic development program, the Department shall
27 implement a process to assist the recipient in meeting the program requirements.

28 3-402.

29 There is a Partnership for Workforce Quality Program in the Department.

30 3-404.

31 (e) [(1)] In accordance with § 2.5-109 of this article, the Secretary shall submit
32 a report on the operation and performance of the Program.

1 [(2) In addition to the requirements under § 2.5–109(c) of this article, the
2 report required under this subsection shall be submitted to:

3 (i) the Governor’s Workforce Development Board; and

4 (ii) the Maryland Economic Development Commission.]

5 5–406.

6 (a) There is a Maryland Industrial Development Financing Authority in the
7 Department.

8 5–419.

9 [(a)] In accordance with § 2.5–109 of this article, the Authority shall submit a
10 report on its condition and operations.

11 [(b) In addition to the requirements under § 2.5–109(c) of this article, the report
12 required under this section shall be submitted to the chair of the Joint Audit and
13 Evaluation Committee.]

14 5–709.

15 [(a) The Department and the Comptroller jointly shall assess each year the
16 effectiveness of the tax credits provided to business entities in enterprise zones and focus
17 areas in enterprise zones, including:

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

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

21 (b) On or before December 15 of each year, the Department and the Comptroller
22 shall submit to the Governor and, in accordance with § 2–1257 of the State Government
23 Article, the General Assembly a report outlining the findings of the Department and the
24 Comptroller and any other information of value in determining] **IN ACCORDANCE WITH §**
25 **2.5–109 OF THIS ARTICLE, THE DEPARTMENT SHALL SUBMIT A REPORT ON** the
26 effectiveness of the tax credits provided under § 5–707(b) of this subtitle.

27 5–1307.

28 (a) On or before October 15 of each year, a political subdivision with a BRAC
29 Revitalization and Incentive Zone designation shall submit a report to the Department that
30 assesses the effectiveness of the benefits provided to the BRAC Revitalization and Incentive
31 Zone in attracting and retaining businesses within the BRAC Revitalization and Incentive
32 Zone.

1 (b) [On or before December 15 of each year] **IN ACCORDANCE WITH § 2.5-109**
2 **OF THIS ARTICLE**, the Department shall[:

3 (1) assess the effectiveness of the benefits provided to the BRAC
4 Revitalization and Incentive Zones in attracting and retaining businesses within BRAC
5 Revitalization and Incentive Zones; and

6 (2) submit to the Governor and, in accordance with § 2-1257 of the State
7 Government Article, the General Assembly a report outlining the findings of the
8 Department and any other information of value in determining] **SUBMIT A REPORT ON**
9 the effectiveness of the benefits under this subtitle.

10 5-1409.

11 [(a) The Department and the Comptroller jointly shall assess each year the
12 effectiveness of the tax incentives provided to business entities in RISE zones, including:

13 (1) the number and amounts of tax incentives granted each year; and

14 (2) the success of the tax incentives in attracting and retaining business
15 entities in RISE zones.

16 (b) On or before December 15 of each year, the Department and the Comptroller
17 shall submit to the Governor and, in accordance with § 2-1257 of the State Government
18 Article, the Senate Budget and Taxation Committee and the House Committee on Ways
19 and Means a report outlining the findings of the Department and the Comptroller and any
20 other information of value in determining] **IN ACCORDANCE WITH § 2.5-109 OF THIS**
21 **ARTICLE, THE DEPARTMENT SHALL SUBMIT A REPORT ON** the effectiveness of the tax
22 incentives authorized under this subtitle.

23 [(c) On or before December 15 each year, the Department shall submit to the
24 Governor and, in accordance with § 2-1257 of the State Government Article, the Senate
25 Budget and Taxation Committee and the House Committee on Ways and Means a report
26 detailing with respect to each RISE zone in which a rental assistance program has been
27 established:

28 (1) the entity administering the rental assistance program;

29 (2) the amount of funds received during the previous fiscal year;

30 (3) the cumulative amount of funds received; and

31 (4) the amount of funds remaining unspent at the end of the previous fiscal
32 year.]

1 5–1501.

2 (a) There is a Small, Minority, and Women–Owned Businesses Account under the
3 authority of the Department.

4 (e) Fund managers receiving grants under this section shall:

5 (1) keep proper records of funds and accounts;

6 (2) provide an annual report to the [Governor and, in accordance with §
7 2–1257 of the State Government Article, the General Assembly] **DEPARTMENT** on
8 investment capital and loans made pursuant to subsection (c) of this section; and

9 (3) be subject to audit by the Office of Legislative Audits of the Department
10 of Legislative Services.

11 [(j) (1) On or before October 1 each year, the Department shall submit a report
12 on the status of money received from the Strategic Energy Investment Fund under
13 subsection (d) of this section to the Senate Finance Committee and the House Economic
14 Matters Committee, in accordance with § 2–1257 of the State Government Article.

15 (2) With respect to the preceding fiscal year and each relevant prior fiscal
16 year, the report shall include:

17 (i) the amounts received from the Fund;

18 (ii) the amounts placed as grants with eligible fund managers; and

19 (iii) with respect to each eligible fund manager:

20 1. the identity of the manager;

21 2. the money provided to the manager;

22 3. the investments made by the manager;

23 4. the amounts retained by the manager as expenses and
24 management fees;

25 5. the small, minority, women–owned, and veteran–owned
26 businesses receiving the investments; and

27 6. the status of the investments listed under item 5 of this
28 item, along with any return made on each investment.]

29 **(J) IN ACCORDANCE WITH § 2.5–109 OF THIS ARTICLE, THE DEPARTMENT**

1 **SHALL SUBMIT A REPORT ON AMOUNTS RECEIVED BY AND EXPENDED BY THE FUND.**

2 5-1602.

3 (a) There is a Make Office Vacancies Extinct Program in the Department.

4 [5-1606.

5 (a) At least once every 3 years, the Secretary shall review and evaluate the
6 Program, including the number of participating counties with comparable support
7 programs and the number and size of eligible businesses that receive support from the
8 Program.

9 (b) Based on the review and evaluation, the Secretary may submit
10 recommendations to the Governor and, subject to § 2-1257 of the State Government Article,
11 the General Assembly on the continued effectiveness of the Program and the level of
12 matching funding that should be provided to participating counties under the Program.]

13 **5-1606.**

14 **IN ACCORDANCE WITH § 2.5-109 OF THIS ARTICLE, THE DEPARTMENT SHALL**
15 **SUBMIT A REPORT ON THE EFFECTIVENESS OF THE PROGRAM.**

16 6-307.

17 (a) In accordance with § 2.5-109 of this article, the Department shall submit a
18 report on[:

19 (1) each business entity certified as eligible for job creation tax credits in
20 the preceding taxable year;

21 (2) whether the credits for which the business entity was certified resulted
22 from the entity's establishment, expansion, or relocation;

23 (3) whether the business entity had a presence in the State before claiming
24 the credit;

25 (4) the total number of employees of the business entity; and

26 (5) the total number of years that the business entity has been in business]

27 **THE JOB CREATION TAX CREDITS AUTHORIZED UNDER THIS SUBTITLE.**

28 6-802.

29 There is a More Jobs for Marylanders Program in the Department.

1 6–809.

2 [On or before December 1 each year, the Department shall report to the General
3 Assembly, in accordance with § 2–1257 of the State Government Article,] **IN ACCORDANCE**
4 **WITH § 2.5–109 OF THIS ARTICLE, THE DEPARTMENT SHALL SUBMIT A REPORT** on
5 the qualified business entities receiving final certification in the preceding fiscal year.

6 **Article – Tax – General**

7 10–721.

8 (b) (1) The purpose of the Research and Development Tax Credit Program is
9 to foster increased research activities and expenditures in Maryland.

10 (g) [(1)] In accordance with § 2.5–109 of the Economic Development Article, the
11 Department shall report on the credits approved under this section.

12 [(2)] The report required under paragraph (1) of this subsection shall include
13 for each individual or corporation approved to receive a credit under this section in the prior
14 calendar year:

15 (i) the individual’s or corporation’s name and address; and

16 (ii) the amount of the credit approved.

17 (3) The report required under paragraph (1) of this subsection shall include
18 the name of the individual or corporation and the aggregate amount of credits approved in
19 all calendar years for each individual or corporation under this section.

20 (4) The report required under paragraph (1) of this subsection shall
21 summarize for the credits approved under this section:

22 (i) the total number of applicants for credits under this section in
23 each calendar year;

24 (ii) the number of applications for which a tax credit was approved
25 in each calendar year; and

26 (iii) the total credits authorized under this section for all calendar
27 years under this section.]

28 10–725.

29 (h) [(1)] In accordance with § 2.5–109 of the Economic Development Article, the
30 Department shall report on[:

1 (i) the initial tax credit certificates awarded under this section for
2 the calendar year, including the number of initial tax credit certificates awarded to
3 qualified investors for investments in qualified Maryland biotechnology companies that
4 were not certified by the Department in the previous calendar year; and

5 (ii) for each qualified Maryland biotechnology company that receives
6 an investment for which an initial tax credit certificate is awarded under this section for
7 the calendar year:

8 1. the number of years that the company has been in active
9 business; and

10 2. the number of years that qualified investors in the
11 company have received tax credits under this section] **THE INITIAL TAX CREDIT**
12 **CERTIFICATES AWARDED FOR THE CALENDAR YEAR AND THE QUALIFIED**
13 **MARYLAND BIOTECHNOLOGY COMPANIES THAT RECEIVED AN INVESTMENT FOR**
14 **WHICH AN INITIAL TAX CREDIT CERTIFICATE WAS AWARDED.**

15 [(2) The report required under paragraph (1) of this subsection shall include
16 for each initial tax credit certificate awarded:

17 (i) the name of the qualified investor and the amount of credit
18 awarded or allocated to each investor;

19 (ii) the name and address of the qualified Maryland biotechnology
20 company that received the investment giving rise to the credit under this section and the
21 county where the qualified Maryland biotechnology company is located; and

22 (iii) the dates of receipt and approval by the Department of all
23 applications for initial tax credit certificates.

24 (3) The report required under paragraph (1) of this subsection shall
25 summarize for the category of qualified investors:

26 (i) the total number of applicants for initial tax credit certificates
27 under this section in each calendar year;

28 (ii) the number of applications for which initial tax credit certificates
29 were issued in each calendar year; and

30 (iii) the total initial tax credit certificates authorized under this
31 section for all calendar years under this section.]

32 10-730.

33 (e) [(1)] In accordance with § 2.5-109 of the Economic Development Article, the

1 Department shall submit a report [that includes:

2 (i) the number of film production entities submitting applications
3 under subsection (c) of this section;

4 (ii) the number and amount of tax credit certificates issued under
5 subsection (d) of this section;

6 (iii) the number of local technicians, actors, and extras hired for film
7 production activity during the reporting period;

8 (iv) a list of companies doing business in the State, including hotels,
9 that directly provided goods or services for film production activity during the reporting
10 period;

11 (v) a list of companies doing business in the State that directly
12 provided goods or services for film production activity during the reporting period that
13 qualified during the reporting period as minority business enterprises under § 14–301(f) of
14 the State Finance and Procurement Article;

15 (vi) a list of companies doing business in the State that directly
16 provided goods or services for film production activity during the reporting period that, as
17 determined by the Department, are considered small businesses; and

18 (vii) any other information that indicates] **ON FILM PRODUCTION**
19 **ACTIVITY IN THE STATE AND** the economic benefits to the State resulting from film
20 production activity during the reporting period.

21 [(2) On or before July 1 of each year, the Department shall report to the
22 Governor and, subject to § 2–1257 of the State Government Article, the General Assembly
23 on:

24 (i) the amount of tax credits necessary to maintain the current level
25 of film production activity in the State; and

26 (ii) the amount of tax credits necessary to attract new film
27 production activity to the State.]

28 10–733.

29 (b) (1) The Innovation Investment Incentive Tax Credit is intended to foster
30 the growth of Maryland’s technology sectors by incentivizing investment in early–stage
31 companies with the goal of increasing the number of companies developing innovative
32 technologies in Maryland, increasing overall investments in current and emerging
33 technology sectors, and increasing the number of individual investors actively investing in
34 Maryland’s technology companies.

1 (h) [(1)] In accordance with § 2.5–109 of the Economic Development Article, the
2 Department shall submit a report on the initial tax credit certificates awarded under this
3 section for the calendar year.

4 [(2)] The report required under paragraph (1) of this subsection shall include
5 for each initial tax credit certificate awarded:

6 (i) the name of the qualified investor and the amount of credit
7 awarded or allocated to each qualified investor;

8 (ii) the name and address of the qualified Maryland technology
9 company that received the investment giving rise to the credit under this section and the
10 county where the qualified Maryland technology company is located; and

11 (iii) the dates of receipt and approval by the Department of all
12 applications for initial tax credit certificates.

13 (3) The report required under paragraph (1) of this subsection shall
14 summarize for the categories of qualified investors:

15 (i) the total number of applicants for initial tax credit certificates
16 under this section in each calendar year;

17 (ii) the number of applications for which initial tax credit certificates
18 were issued in each calendar year; and

19 (iii) the total initial tax credit certificates authorized under this
20 section for all calendar years under this section.]

21 10–733.1.

22 (b) (1) Subject to paragraphs (2) and (3) of this subsection, a qualified buyer
23 may claim a credit against the State income tax in an amount equal to 50% of the cost
24 incurred during the taxable year to purchase cybersecurity technology or a cybersecurity
25 service from one or more qualified sellers.

26 (f) [(1)] In accordance with § 2.5–109 of the Economic Development Article, the
27 Department shall submit a report on the credit certificates awarded under this section for
28 the calendar year.

29 [(2)] The report required under paragraph (1) of this subsection shall include
30 for each credit certificate awarded:

31 (i) the names of the qualified buyer and the qualified seller and the
32 amount of the credit certificate approved for each qualified buyer;

33 (ii) the name and address of the qualified buyer that received the

1 credit under this section and the county where the qualified buyer is located; and

2 (iii) the dates of receipt and approval by the Department of all
3 applications for credit certificates.

4 (3) The report required under paragraph (1) of this subsection shall
5 summarize for the categories of qualified buyers:

6 (i) the total number of applicants for credit certificates under this
7 section in each calendar year;

8 (ii) the number of applications for which credit certificates were
9 issued in each calendar year; and

10 (iii) the total amount of credit certificates authorized under this
11 section for all calendar years under this section.]

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
13 1, 2022.