

SENATE BILL 391

C8

2lr0045
CF HB 418

By: **The President (By Request – Administration) and Senators Bailey, Carozza, Cassilly, Corderman, Eckardt, Edwards, Elfreth, Gallion, Griffith, Hershey, Hester, Hough, Jennings, Ready, Salling, Simonaire, and West**

Introduced and read first time: January 24, 2022

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Economic Development – More Jobs for Marylanders Program – Extension and**
3 **Alterations**

4 FOR the purpose of altering the circumstances under which and the period of time for which
5 the Department of Commerce may provide a certain qualified business entity a
6 certificate certifying that a certain eligible project is enrolled in the More Jobs for
7 Marylanders Program; requiring the Comptroller to transfer, from the More Jobs for
8 Marylanders Tax Credit Reserve Fund to the General Fund of the State, an amount
9 equal to the credit amount stated in the final tax credit certificate issued to a
10 qualified business entity, rather than the amount stated in the initial tax credit
11 certificate; and generally relating to the More Jobs for Marylanders Program.

12 BY repealing and reenacting, without amendments,
13 Article – Economic Development
14 Section 6–801(a) through (e), (g), and (i) through (m), 6–803(a), (b)(1), and (c)(2), and
15 6–804
16 Annotated Code of Maryland
17 (2018 Replacement Volume and 2021 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article – Economic Development
20 Section 6–805
21 Annotated Code of Maryland
22 (2018 Replacement Volume and 2021 Supplement)

23 BY repealing and reenacting, without amendments,
24 Article – Tax – General
25 Section 10–741(a) through (c)
26 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2016 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 10–741(d)
Annotated Code of Maryland
(2016 Replacement Volume and 2021 Supplement)

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

Article – Economic Development

6–801.

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

(b) “Benefit year” means a taxable year in which a qualified business entity claims a program benefit established under § 6–805 of this subtitle.

(c) (1) “Business entity” means a person conducting or operating a trade or business that is:

(i) primarily engaged in activities that, in accordance with the North American Industrial Classification System (NAICS), United States Manual, United States Office of Management and Budget, 2012 Edition, would be included in Sector 31, 32, or 33; or

(ii) located in an opportunity zone.

(2) “Business entity” does not include:

(i) a refiner, as defined in § 10–101 of the Business Regulation Article;

(ii) a person conducting or operating a trade or business that is:

1. providing adult entertainment, as determined by the Department;

2. primarily engaged in retail activities, unless the person is operating a grocery store located in an opportunity zone; or

3. primarily engaged in the sale or distribution of alcoholic beverages; or

(iii) the following entities:

- 1 1. a private or commercial golf course or country club;
- 2 2. a tanning salon; or
- 3 3. a bail bondsman.

4 (d) “Eligible project” means a facility operated by a business entity in a Tier I area
5 or Tier II area.

6 (e) “Existing business entity” means a business entity that is located in the State
7 at the time it notifies the Department under § 6–803(c) of this subtitle.

8 (g) “New business entity” means a business entity that is not located in the State
9 at the time it notifies the Department under § 6–803(b) of this subtitle.

10 (i) “Program” means the More Jobs for Marylanders Program established under
11 this subtitle.

12 (j) “Qualified business entity” means a new business entity or an existing
13 business entity operating an eligible project under this subtitle.

14 (k) (1) “Qualified position” means a position that:

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

16 (ii) 1. except as provided in item 2 of this item, for a position in
17 a facility that is located in an opportunity zone, pays an average annual salary that exceeds
18 \$50,000; or

19 2. for a position in a facility of a business entity described
20 under subsection (c)(1)(i) of this section, pays at least 120% of the State minimum wage;

21 (iii) is located in a facility;

22 (iv) is newly created at a single facility in the State; and

23 (v) is filled.

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

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

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

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

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

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

7 (l) "Tier I area" means:

8 (1) a Tier I county, as defined in § 1–101 of this article;

9 (2) a county designated by the Department that is not a county described
10 in item (1) of this subsection, not to exceed three counties; or

11 (3) an opportunity zone.

12 (m) "Tier II area" means an area that is not an area described in subsection (l) of
13 this section.

14 6–803.

15 (a) A business entity may apply to the Department to enroll an eligible project in
16 the Program if the eligible project:

17 (1) is in a Tier I area and the business entity intends to create at least five
18 qualified positions at the project location; or

19 (2) is in a Tier II area and the business entity intends to create at least 10
20 qualified positions at the project location.

21 (b) (1) A new business entity may not be certified as a qualified business entity
22 unless the new business entity:

23 (i) notifies the Department of its intent to seek designation of an
24 eligible project before establishing its facility in the State; and

25 (ii) offers an ongoing job skills enhancement training program or
26 postsecondary education program that is approved by the Department.

27 (c) (2) An existing business entity may not be certified as a qualified business
28 entity unless the business entity:

29 (i) notifies the Department of its intent to seek designation of an
30 eligible project prior to hiring any employees to fill the qualified positions necessary to meet
31 the requirements of this subtitle; and

1 (ii) offers an ongoing job skills enhancement training program or
2 postsecondary education program that is approved by the Department.

3 6–804.

4 (a) The Program benefits authorized under this section may be claimed by a
5 qualified business entity for up to 10 consecutive benefit years.

6 (b) On enrollment in the Program:

7 (1) a new business entity in a Tier I area is eligible for:

8 (i) a credit against the State income tax, established under §
9 10–741(b) of the Tax – General Article;

10 (ii) a credit against the State property tax, established under §
11 9–110 of the Tax – Property Article;

12 (iii) a refund of sales and use tax paid during the immediately
13 preceding taxable year, as provided under § 11–411 of the Tax – General Article; and

14 (iv) a waiver of fees charged by the State Department of Assessments
15 and Taxation, established under § 1–203.1 of the Corporations and Associations Article;
16 and

17 (2) except as provided in subsection (c) of this section, an existing business
18 entity that operates an eligible project is eligible for a credit against the State income tax,
19 established under § 10–741(b) of the Tax – General Article.

20 (c) The income tax credit established under § 10–741(b) of the Tax – General
21 Article is not available to an existing business entity if the entity moves its facility to
22 another county in the State on or after June 1, 2017.

23 (d) If the number of qualified positions at the eligible project decreases to a
24 number less than the number established in the first benefit year, the project shall be
25 removed from the Program and all program benefits terminate.

26 6–805.

27 (a) The Department shall provide to a qualified business entity a certificate that:

28 (1) certifies the eligible project that is enrolled in the Program;

29 (2) provides the duration of the certification; and

1 (3) provides any additional information necessary for the Comptroller and
2 Department to administer the Program.

3 (b) (1) [The] **FOR A QUALIFIED BUSINESS ENTITY THAT HAS SUBMITTED**
4 **THE NOTICE REQUIRED UNDER § 6-803(B)(1)(I) OR (C)(2)(I) OF THIS SUBTITLE**
5 **BEFORE JUNE 1, 2022, THE** Department may not provide [a] **THE** qualified business
6 entity a certificate on or after June 1, 2022.

7 (2) **FOR A QUALIFIED BUSINESS ENTITY THAT HAS SUBMITTED THE**
8 **NOTICE REQUIRED UNDER § 6-803(B)(1)(I) OR (C)(2)(I) OF THIS SUBTITLE ON OR**
9 **AFTER JUNE 1, 2022, THE DEPARTMENT MAY NOT PROVIDE THE QUALIFIED**
10 **BUSINESS ENTITY A CERTIFICATE ON OR AFTER JUNE 1, 2027.**

11 Article – Tax – General

12 10-741.

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

14 (2) “Business entity” has the meaning stated in § 6-801 of the Economic
15 Development Article.

16 (3) “Department” means the Department of Commerce.

17 (4) “Eligible project” has the meaning stated in § 6-801 of the Economic
18 Development Article.

19 (5) “Existing business entity” has the meaning stated in § 6-801 of the
20 Economic Development Article.

21 (6) “New business entity” has the meaning stated in § 6-801 of the
22 Economic Development Article.

23 (7) “Qualified business entity” has the meaning stated in § 6-801 of the
24 Economic Development Article.

25 (8) “Qualified position” has the meaning stated in § 6-801 of the Economic
26 Development Article.

27 (9) “Tier I area” has the meaning stated in § 6-801 of the Economic
28 Development Article.

29 (10) “Tier II area” has the meaning stated in § 6-801 of the Economic
30 Development Article.

1 (b) (1) Subject to the limitations of this section, an individual or corporation
2 that is a new business entity that operates an eligible project in a Tier I area or an existing
3 business entity that operates an eligible project may claim a credit against the State income
4 tax equal to the amount stated in the final tax credit certificate approved by the
5 Department for an eligible project.

6 (2) The amount of the credit authorized under paragraph (1) of this
7 subsection is equal to the product of:

8 (i) the State employer withholding amount, which is equal to the
9 highest tax rate listed in § 10–105(a) of this title; and

10 (ii) the total amount of wages paid for each qualified position at an
11 eligible project.

12 (3) If the tax credit allowed under this section in any taxable year exceeds
13 the total tax otherwise payable by the qualified business entity for that taxable year, the
14 qualified business entity may claim a refund in the amount of the excess.

15 (c) (1) On enrollment in the More Jobs for Marylanders Program established
16 under Title 6, Subtitle 8 of the Economic Development Article, a qualified business entity
17 shall apply to the Department for a tax credit certificate.

18 (2) The application shall be in the form and shall contain the information
19 the Department requires.

20 (3) (i) Subject to subsections (d) and (e) of this section, the Department
21 may issue a tax credit certificate to a qualified business entity in an amount not to exceed
22 the amount determined under subsection (b)(2) of this section.

23 (ii) In determining the allocation of the aggregate tax credit amounts
24 available in a fiscal year as provided under subsection (d) of this section, the Department
25 shall give priority to applications for eligible projects in a Tier I area, as defined under §
26 6–801 of the Economic Development Article.

27 (d) (1) In this subsection, “Reserve Fund” means the More Jobs for
28 Marylanders Tax Credit Reserve Fund established under paragraph (2) of this subsection.

29 (2) (i) There is a More Jobs for Marylanders Tax Credit Reserve Fund
30 that is a special continuing, nonlapsing fund that is not subject to § 7–302 of the State
31 Finance and Procurement Article.

32 (ii) The money in the Reserve Fund shall be invested and reinvested
33 by the Treasurer, and interest and earnings shall be credited to the General Fund.

34 (3) (i) Subject to the limitations of this subsection, the Department
35 shall issue an initial tax credit certificate in an amount equal to a percentage of total wages

1 paid for each qualified position at an eligible project as calculated under subsection (b)(2)
2 of this section.

3 (ii) An initial tax credit certificate issued under this subsection shall
4 state the maximum amount of tax credit for which the qualified business entity is eligible.

5 (iii) 1. Except as otherwise provided in this subparagraph, for
6 any fiscal year, the Department may not issue initial tax credit certificates for credit
7 amounts in the aggregate totaling more than \$9,000,000 in a fiscal year.

8 2. If the aggregate credit amounts under initial tax credit
9 certificates issued in a fiscal year total less than the maximum provided under
10 subparagraph 1 of this subparagraph, any excess amount shall remain in the Reserve
11 Fund and may be issued under initial tax credit certificates for the next fiscal year.

12 3. For any fiscal year, if funds are transferred from the
13 Reserve Fund under the authority of any provision of law other than under paragraph (4)
14 of this subsection, the maximum credit amounts in the aggregate for which the Department
15 may issue initial tax credit certificates shall be reduced by the amount transferred.

16 (iv) For fiscal year 2019 and each fiscal year thereafter, the Governor
17 shall include in the annual budget bill an appropriation to the Reserve Fund in an amount
18 that is no less than the amount the Department reports is necessary under subsection (e)
19 of this section to:

20 1. maintain the current level of manufacturing activity in
21 the State;

22 2. attract new manufacturing activity to the State; and

23 3. attract new businesses to and encourage the expansion of
24 existing businesses within opportunity zones in the State.

25 (v) Notwithstanding the provisions of § 7-213 of the State Finance
26 and Procurement Article, the Governor may not reduce an appropriation to the Reserve
27 Fund in the State budget as approved by the General Assembly.

28 (vi) Based on an amount equal to a percentage of the total actual
29 wages paid for each qualified position at an eligible project as calculated under subsection
30 (b)(2) of this section, the Department shall issue a final tax credit certificate to the qualified
31 business entity.

32 (4) (i) Except as provided in this paragraph, money appropriated to the
33 Reserve Fund shall remain in the Fund.

1 (ii) 1. Within 15 days after the end of each calendar quarter, the
2 Department shall notify the Comptroller as to each final credit certificate issued during the
3 quarter:

4 A. the maximum credit amount stated in the initial tax credit
5 certificate for the qualified business entity; and

6 B. the final certified credit amount for the qualified business
7 entity.

8 2. On notification that a final credit amount has been
9 certified, the Comptroller shall transfer an amount equal to the credit amount stated in the
10 [initial] FINAL tax credit certificate for the qualified business entity from the Reserve Fund
11 to the General Fund.

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