Department of Legislative Services

Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 710 (Delegate J. Lewis, *et al.*)

Environment and Transportation and
Ways and Means

Equitable and Inclusive Transit–Oriented Development Enhancement Act

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This bill extends the More Jobs for Marylanders Program by three years and expands eligibility to certain businesses located in transit-oriented developments (TODs). The bill establishes the TOD Capital Grant and Revolving Loan Fund and its purpose, funding sources, and authorized uses. The Governor must include in the annual budget bill an appropriation sufficient to ensure a fund balance of at least $10.0 million at the beginning of the fiscal year. The bill also requires the Secretary of Transportation to submit a report to the General Assembly by November 30 of each year, beginning in 2023, on efforts to increase TOD throughout the State. **The bill takes effect July 1, 2022.**

Fiscal Summary

State Effect: General fund expenditures increase by $4.7 million in FY 2025 and $23.8 million in FY 2027 (with significant increases beyond), general fund revenues may decrease beginning in FY 2025, and special fund revenues may decrease beginning in FY 2026 due to the More Jobs for Marylanders Program. Transportation Trust Fund (TTF) expenditures increase by $464,700 in FY 2023, with ongoing costs; up to $10.0 million in TTF funding is redirected from other projects annually to capitalize the new fund, as discussed below. **This bill establishes a mandated appropriation beginning in FY 2024 and extends mandated appropriations, likely beginning in FY 2025.**

($ in millions)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
GF Revenue	$0	$0	(-)	(-)	(-)
SF Revenue	$0	$0	$0	(-)	(-)
GF Expenditure	$0	$0	$4.7	$13.7	$23.8
SF Expenditure	$0.5	$0.4	$0.4	$0.4	$0.4
Net Effect	($0.5)	($0.4)	($5.1)	($14.1)	($24.2)

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

Local Effect: To the extent local jurisdictions receive financial assistance, local revenues and expenditures increase. Local highway user revenues decrease to the extent More Jobs

for Marylanders tax credits are claimed against the corporate income tax.
Small Business Effect: Meaningful.

Analysis

Bill Summary:

More Jobs for Marylanders – Program Extension and Changes to Program Benefits

The More Jobs for Marylanders Program has a multistep application process – before applying for tax credits a business must first submit a notice of intent to seek designation as an eligible project. Under current law, the Department of Commerce may certify that a project meets program requirements and, therefore, may be eligible for 10-year tax benefits, through June 1, 2022. The bill extends the program by three years so that Commerce can certify projects through June 1, 2025.

Under current law, a business generally must operate or conduct a trade or business that is primarily engaged in manufacturing, or else be located in a federal opportunity zone, and not be otherwise excluded by law. The bill extends Tier I program eligibility to nonmanufacturers located in TODs and generally extends program requirements that currently apply to nonmanufacturers located in a federal opportunity zone.

Transit-Oriented Development Capital Grant and Revolving Loan Fund

The TOD Capital Grant and Revolving Loan Fund is established as a special, nonlapsing fund. The purpose of the fund is to promote the equitable and inclusive development of TODs throughout the State.

The fund consists of (1) money appropriated in the State budget to the fund; (2) money made available for qualifying uses by the fund from other governmental sources, including community development block grants and TTF; (3) ground rents or land sale proceeds received from a capital asset being leased or sold to a private party for the purpose of realizing a TOD; (4) payments of principal of and interest on loans made under the fund; (5) investment earnings of the fund; and (6) any other money from any other source, public or private, accepted for the benefit of the fund. Contributions to the fund from ground rents or land sale proceeds must be separately accounted for in the fund and may only be used for the benefit of TODs in the same county in which the real property is located. For each fiscal year, the Governor must include in the annual budget bill an appropriation sufficient to ensure a fund balance of at least $10.0 million at the beginning of the fiscal year.

The fund may be used by the Maryland Department of Transportations (MDOT) to provide financial assistance to local jurisdictions for TOD design plans, as specified, public infrastructure improvements within a TOD, or gap funding for public or private development within a TOD. A private entity, including a nonprofit entity, participating in the development of a TOD may partner with a local jurisdiction to submit an application for specified financial assistance.

MDOT must establish and publish on its website eligibility requirements and scoring standards for reviewing applications. MDOT may establish scoring preferences for applications as specified in the bill and different requirements and standards for the different types of financial assistance. An application for financial assistance must include specified commitments and funding strategies, if applicable.

Ground Rents and Land Sale Proceeds

The TOD Capital Grant and Revolving Loan Fund is included as an authorized recipient of money received from a capital asset being leased or sold to a private party for the purpose of realizing a TOD.

Annual Report

By November 30, 2023, and annually thereafter, the Secretary of Transportation must submit a report to the General Assembly on efforts to increase TOD throughout the State. The report must include an analysis as specified in the bill on each TOD, and MDOT must consider the report findings for purposes of updating the scoring standards for TOD Capital Grant and Revolving Loan Fund financial assistance applications.

Intent of the General Assembly

The bill expresses legislative intent that MDOT make all reasonable attempts to include TOD as part of the preferred plan for development in areas served by transit services – by providing preference to proposals that further this purpose when (1) distributing funds from State programs offering grants and loans for development and infrastructure investment, federal community development block grants, and the proceeds of general obligation bond and grant anticipation revenue vehicle issuances and (2) awarding State tax credits.

Current Law:

More Jobs for Marylanders Program

Chapter 149 of 2017 established the More Jobs for Marylanders Program, which is administered by Commerce and provides State income tax, sales tax, property tax, and fee benefits to certain businesses that create and maintain a minimum number of qualified jobs.

Eligibility for specific benefits is determined by the type of business, its location, and whether or not it is a new business. Generally, a business must operate or conduct a trade or business that is primarily engaged in manufacturing, or else be located in a federal opportunity zone, and not be otherwise excluded by law. A business within a "Tier I Area" must create at least 5 qualified positions, and a business within a "Tier II Area" must create at least 10 qualified positions – additional requirements apply to both areas. Specific benefits are as follows:

- ***Tier I New Manufacturing Business:*** (1) a refundable State income tax credit equal to 5.75% of the wages paid to each qualified position; (2) a 100% credit against certain State property taxes; (3) a refund of certain sales and use taxes; and (4) a waiver of corporate filing fees.

- ***Tier I or Tier II Existing Manufacturing Business:*** A refundable State income tax credit equal to 5.75% of wages paid to each qualified position.

- ***Tier I Opportunity Zone New Nonmanufacturing Business:*** (1) A refundable State income tax credit equal to 5.75% of wages paid to each qualified position; (2) a credit against certain State property taxes that is equal to the lesser of 100% of the tax imposed or $250 per qualified position; (3) a refund of certain sales and use taxes; and (4) a waiver of corporate filing fees.

- ***Tier I Opportunity Zone Existing Nonmanufacturing Business:*** A refundable State income tax credit equal to 5.75% of wages paid to each qualified position.

Businesses excluded from program eligibility are (1) refiners; (2) those that provide adult entertainment; (3) those that engage in retail activities, except for grocery stores located in opportunity zones; and (4) those primarily engaged in the sale or distribution of alcoholic beverages.

Tier I Areas include Baltimore City and Allegany, Baltimore, Caroline, Cecil, Dorchester, Garrett, Kent, Prince George's, Somerset, Washington, Wicomico, and Worcester counties. Tier I Areas also include opportunity zones located in any Maryland county. Tier II Areas are any areas that are not Tier I Areas. Counties must meet specified income or unemployment criteria, or be designated by Commerce, to be considered a Tier I Area. Opportunity zones are census tracts designated by the State as part of a program established by the federal Tax Cuts and Jobs Act of 2017.

Chapter 149 established two reserve funds – the More Jobs for Marylanders Tax Credit Reserve Fund and the More Jobs for Marylanders Sales and Use Tax Refund Reserve Fund – to offset the cost of income tax credit and sales and use tax refunds under the program. The total amount of initial income tax credit certificates issued by Commerce in each fiscal year generally cannot exceed $9.0 million. The Governor must appropriate money to the More Jobs for Marylanders Tax Credit Reserve Fund each fiscal year. The Governor must include an amount that is necessary to maintain the current level of manufacturing activity in the State and attract new manufacturing activity to the State. Any amount of money in the fund that is not expended in the fiscal year remains in the fund and must be rolled over into the next fiscal year.

The total amount of sales and use tax refunds issued by Commerce in each fiscal year generally cannot exceed $1.0 million. The Governor must also appropriate funds to the More Jobs for Marylanders Sales and Use Tax Refund Reserve Fund each fiscal year; however, the Governor is not required to appropriate a specific amount. Any amount of money in the fund that is not expended in the fiscal year is transferred to the More Jobs for Marylanders Tax Credit Reserve Fund.

For additional information about the More Jobs for Marylanders Program, please see the fiscal and policy notes for Senate Bill 391/House Bill 418.

Transit-oriented Development

It is the policy of the State that the development of improved and expanded railroad facilities, railroad services, transit facilities, and transit services operating as a unified and coordinated regional transportation system, and the realization of TOD throughout the State, represent transportation purposes that are essential for the satisfactory movement of people and goods, the alleviation of present and future traffic congestion, the economic welfare and vitality, and the development of the metropolitan area of Baltimore and other political subdivisions of the State.

"Transit-oriented development" is a mix of private or public parking facilities, commercial and residential structures, and uses, improvements, and facilities customarily appurtenant to such facilities and uses, that is:

- part of a deliberate development plan or strategy involving (1) property that is adjacent to the passenger boarding and alighting location of a planned or existing transit station or (2) property, any part of which is located within one-half mile of the passenger boarding and alighting location of a planned or existing transit station;

- planned to maximize the use of transit, walking, and bicycling by residents and employees; and
- designated as TOD by (1) the Secretary of Transportation after considering a recommendation of the Smart Growth Subcabinet and (2) the local government or multicounty agency with land use and planning responsibility for the relevant area.

State Fiscal Effect:

Transit-Oriented Development Capital Grant and Revolving Loan Fund

The bill requires an appropriation in the State budget in an amount sufficient to ensure a TOD Capital Grant and Revolving Loan Fund balance of $10.0 million at the beginning of each fiscal year. Funding in fiscal 2023 is discretionary. MDOT's capital program is fully subscribed through fiscal 2027. Assuming TTF expenditures are used to meet the mandated appropriation, the bill redirects $10.0 million annually in TTF expenditures to the TOD Capital Grant and Revolving Loan Fund from other capital program projects. This analysis assumes MDOT depletes the TOD Capital Grant and Revolving Loan Fund balance each year. To the extent that funds remain at the end of a fiscal year, less TTF funds will be redirected the following year.

Proceeds from lease agreements on MDOT property may be redirected to the TOD Capital Grant and Revolving Loan Fund. As a result, MDOT may have less flexibility in addressing other transportation expenses.

As the bill authorizes MDOT to make loans, special fund revenues to the TOD Capital Grant and Revolving Loan Fund may increase as funds are repaid, with additional special fund expenditures as those funds are redistributed under the program.

Related Administrative Costs at the Maryland Department of Transportation

TTF expenditures increase by $464,703 in fiscal 2023, which accounts for a 90-day start-up delay from the bill's July 1, 2022 effective date. This estimate reflects the cost of hiring one program director, one financial manager, one program assistant, and one program manager to administer and account for the TOD Capital Grant and Revolving Loan Fund program. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. It includes $150,000 in consultant fees to assist with establishing eligibility requirements and scoring standards and creating an application platform.

Positions	4
Salaries and Fringe Benefits	$285,331
One-time Start-up Expenses	176,192

Operating Expenses	3,180
Total FY 2023 State Expenditures	**$464,703**

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses. These costs cannot be absorbed in the $10.0 million funding discussed above, as administrative expenses are not an allowed cost.

More Jobs for Marylanders Program

The bill extends the More Jobs for Marylanders Program for three additional years and extends Tier 1 program benefits to certain nonmanufacturers located in TODs. Commerce may certify businesses as eligible for the program through June 1, 2025.

As a result, general fund expenditures may increase by $4.7 million in fiscal 2025, $13.7 million in fiscal 2026, and $23.8 million in fiscal 2027. State revenues may decrease beginning in fiscal 2025 due to additional program benefits, but those amounts cannot be reliably quantified. These likely impacts are summarized in **Exhibit 1** and detailed further below.

Exhibit 1
Likely Impacts from Extending and Expanding the More Jobs for Marylanders Program
Fiscal 2023-2027
($ in Millions)

	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Expenditure Impacts					
General Fund					
Income Tax Credit Reserve Fund	$0	$0	$4.5	$13.5	$23.6
Sales and Use Tax Refund Reserve Fund	0	0.0	0.2	0.2	0.2
Total Expenditures	**$0**	**$0**	**$4.7**	**$13.7**	**$23.8**
Revenue Impacts					
General Fund					
Corporate Filing Fee Waiver	$0	$0	(-)	(-)	(-)
Special Fund					
State Property Tax Credit	$0	$0	$0	(-)	(-)
Total Revenues	**$0**	**$0**	**(-)**	**(-)**	**(-)**
Net Effect	**$0.0**	**$0.0**	**($4.7)**	**($13.7)**	**($23.8)**

Source: Department of Legislative Services

Income Tax Credit Appropriations

General fund expenditures from the Income Tax Credit Reserve Fund may increase by $4.5 million in fiscal 2025, $13.5 million in fiscal 2026, and $23.6 million in fiscal 2027. These expenditure amounts are expected to increase significantly through fiscal 2035 before decreasing thereafter. The bill's extension may require a total general fund expenditure increase of $484.7 million in fiscal 2025 through 2038.

This estimate is based on the following facts and assumptions:

- Commerce awards the maximum allowable initial income tax credit certificates ($9.0 million) in each fiscal year.
- On average, a business claims a first-year tax credit 2.5 years after applying to the program.
- In benefit years 2 through 10, tax credit claims increase by about 8% annually.
- Funds are not reallocated from the Sales and Use Tax Refund Reserve Fund.

The Department of Legislative Services (DLS) advises that there is limited data available to project the cost of the program, so actual appropriation amounts may be significantly different than estimated. In addition, general fund expenditures may begin increasing in fiscal 2024 to the extent businesses complete projects faster than anticipated.

Sales and Use Tax Refund Appropriations

The extension of the program also extends the requirement that the Governor appropriate funds to the Sales and Use Tax Refund Reserve Fund. Assuming participation in the program, general fund expenditures may increase by $0.2 million annually beginning in fiscal 2025. General fund expenditures may be less or more depending on the actual amount of tax credit activity.

Other Provisions Affecting Revenues

General fund revenues may decrease beginning in fiscal 2025 due to additional qualified businesses claiming a corporate filing fee exemption. Special fund revenues may decrease beginning in fiscal 2026 due to the State property tax credit for eligible real property. Any impact is not expected to be significant in the near term.

Local Fiscal Effect: Local jurisdictions are eligible to receive financial assistance from the TOD Capital Grant and Revolving Loan Fund for design plans for a TOD, public infrastructure improvements within a TOD, or gap funding for public or private development within a TOD. Thus, to the extent that local jurisdictions receive financial assistance, local revenues and expenditures increase. Since up to $10.0 million annually is redirected from MDOT's capital program, local revenues may decrease for jurisdictions without TODs that would have otherwise received funds from TTF absent the bill.

Local highway user revenues decrease to the extent More Jobs for Marylanders tax credits are claimed against the corporate income tax.

Small Business Effect: Small businesses located in or involved in the development of a TOD may benefit significantly from TOD projects funded through the TOD Capital Grant and Revolving Loan Fund. Small businesses may also benefit from receiving More Jobs for Marylanders tax credits; however, DLS notes that the primary beneficiaries of the More Jobs for Marylanders program are large, established corporations. DLS estimated in calendar 2020 that small businesses (independent businesses with 25 or fewer employees) had two qualifying projects and received about 1% of all tax credits.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 516 (Senator Augustine) - Budget and Taxation.

Information Source(s): Caroline, Montgomery, and Prince George's counties; Maryland Association of Counties; City of Annapolis; Maryland Municipal League; Department of Commerce; Comptroller's Office; Department of Budget and Management; Department of General Services; Maryland Department of Transportation; Department of Legislative Services

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