HB 418

Department of Legislative Services

Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 418 (The Speaker, *et al.*) (By Request - Administration)
Ways and Means

Economic Development – More Jobs for Marylanders Program – Extension and Alterations

This Administration bill extends the More Jobs for Marylanders Program for five additional years through June 1, 2027. The bill also alters certain program application and administrative procedures. **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 due to program tax credit appropriations. As discussed below, general fund expenditures are expected to continue to increase significantly beyond FY 2027. General fund revenues may decrease beginning in FY 2025 due to qualified businesses claiming a corporate filing fee exemption, and special fund revenues may decrease beginning in FY 2026 due to State property tax credit claims. **This bill 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
Net Effect	$0.0	$0.0	($4.7)	($13.7)	($23.8)

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

Local Effect: Local highway user revenues will decrease to the extent tax credits are claimed against the corporate income tax. Local expenditures are not affected.

Small Business Effect: The Administration has determined that this bill has a meaningful impact on small business (attached). The Department of Legislative Services (DLS) disagrees with this assessment as discussed below.

Analysis

Bill Summary: The More Jobs for Marylanders Program has a multi-step 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 5 years so that Commerce can certify projects through June 1, 2027. In addition, the bill specifies that Commerce may not provide a business a certificate of eligibility after June 1, 2022, if the business submitted a notice of intent before this date.

Current law requires that the Comptroller's Office transfer from the More Jobs for Marylanders Tax Credit Reserve Fund to the general fund an amount equal to the initial tax credit certificate issued. The bill specifies that the amount transferred must instead equal the amount of the final tax credit certificate issued.

Current Law: 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.

Background:

Program Activity

Commerce began accepting program applications in June 2017 and issued its first initial tax credit certificate in October 2018. Subsequently, the estimated "pipeline" of projects that are in different phases of the application process has grown. Commerce submitted information on February 1, 2022, that stated the department has received 315 notices of intent to enroll in the program. Of this total, 35 businesses are enrolled in the program but have not yet applied for tax credits and 54 businesses have received final or initial tax credits. In addition, Commerce reports additional applications may be submitted by businesses that have expressed interest in the program and by others that the department has identified as potential participants.

Although most of the 54 businesses that have received an initial tax certificate estimate hiring fewer than 15 qualified jobs for the first participation year, 3 businesses are expected to hire over 100 qualified jobs. In the 2021 More Jobs for Marylanders Reserve Fund Report, Commerce estimates that on average a business will receive an income tax credit of $5,003 per job. Given the projected growth in wages, DLS estimates the average credit per job will total $60,000 over a 10-year period.

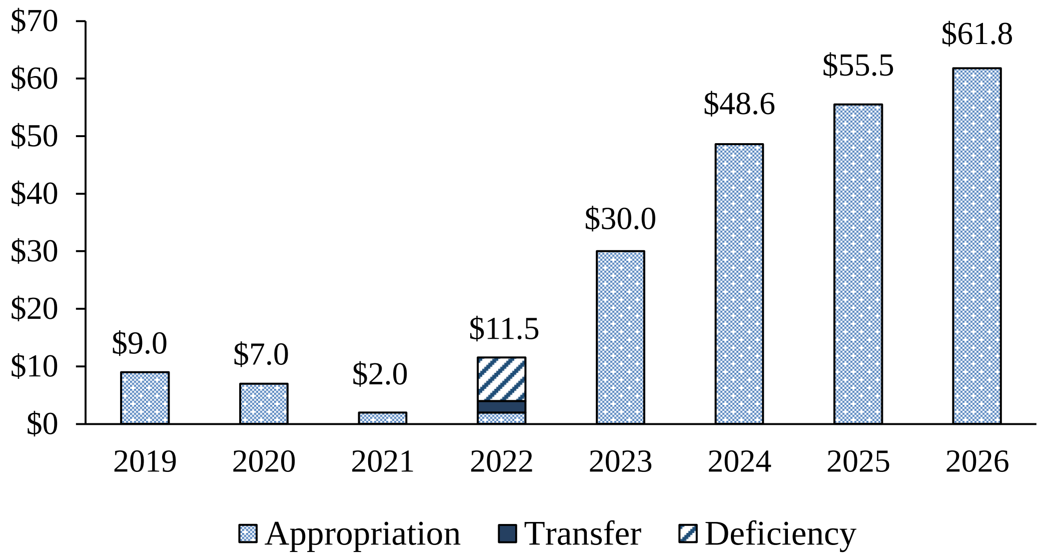
To date, the program has largely provided income tax benefits to established manufacturers without regard to the Tier I and Tier II designations. Projects located in Tier II counties have received over 80% of all year one final tax credits. Further, projects in Montgomery and Anne Arundel counties account for about two-thirds of credits. Most of the tax credits have been awarded to large, established corporations – three companies account for more than one-half of all year one final tax credits. Projects have typically expanded significantly in the second year of participation, with most projects more than doubling the amount of tax credits compared to year one.

Chapter 211 of 2019 expanded the program to qualified nonmanufacturing businesses located in federal opportunity zones. Commerce reports that at least 16 nonmanufacturing businesses have submitted a notice of intent, but as of December 2021, only 1 nonmanufacturing business has applied for a tax credit certificate.

Six new businesses in a Tier I Area have received an initial tax credit certificate. These new businesses are also eligible for a sales and use tax refund, State property tax credit, and filing fee exemption. DLS is not aware of any business claiming these benefits to date. The Governor's proposed fiscal 2023 budget does not contain any funding for the sales and use tax refund reserve fund. Commerce reports that several projects have expressed interest in utilizing the tax benefit.

The Governor's proposed fiscal 2023 budget includes $30.0 million for the income tax reserve fund. The Governor's proposed budget also includes a $7.5 million deficiency to cover tax credits that are not able to be funded from the balance available in the reserve fund. As shown in **Exhibit 1**, income tax credit appropriations are expected to increase to over $60.0 million by fiscal 2026. These estimated appropriations reflect Commerce projections of tax credit activity through the current program termination and do not include funding that will be required beyond fiscal 2026 as companies continue to claim the 10-year tax credit.

Exhibit 1
Income Tax Credit Funding
More Jobs for Marylanders
Fiscal 2019-2026
($ in Millions)



Source: Department of Commerce; Department of Legislative Services

In addition, DLS estimates that the funding shown in Exhibit 1 for the current program is insufficient and will require an additional $14.8 million in funds to meet projected demand. The estimates reflect significant uncertainty over the expected path of tax credit activity as Commerce projections have increased over time. The total amount of estimated funding required in fiscal 2022 through 2025 has increased by $100 million compared to what was estimated in calendar 2020.

Department of Legislative Services Evaluation

The Tax Expenditure Evaluation Act requires DLS to evaluate certain tax credits, exemptions, and preferences. In January 2021, DLS submitted a report on the More Jobs for Marylanders Program to the General Assembly. DLS identified several challenges and recommendations related to the program.

The report determined that the fiscal cost of the program is projected to increase, but there is significant uncertainty over the timing and magnitude of the impact. Each approved business is entitled to a 10-year tax benefit, creating unfunded liabilities that will require future year appropriations. These mandated appropriations limit the ability of the General Assembly to adjust the fiscal impact of the program. In addition, DLS determined that extending the program will add additional years of participants, thereby significantly increasing future mandated funding.

In order to address the long-term funding mandated by the program in future years, DLS recommended that the General Assembly consider statutory changes to (1) reduce the fiscal cost of the program and (2) clarify the annual authorization limits on the tax credits Commerce may award. In addition, DLS further recommended that the General Assembly consider allowing the program to terminate.

Additional findings and recommendations included (1) requiring Commerce and the Maryland Department of Labor to submit a report on consolidating specified State tax credits given the overlap in similar objectives and incentives across the programs; (2) reducing the complexity of the program by simplifying eligibility standards; and (3) targeting the program to smaller-sized businesses, which are underrepresented in the program.

A copy of the draft report can be found on the DLS website.

State Fiscal Effect: The bill extends the More Jobs for Marylanders Program for five additional years. Commerce may certify businesses as eligible for the program through June 1, 2027. 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. **Appendix 1** details the fiscal impact of the bill in fiscal 2023 through 2027.

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 gradually decreasing thereafter. The proposed extension may require a total general fund expenditure increase of $807.8 million in fiscal 2025 through 2040.

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; and
- funds are not reallocated from the sales and use tax refund reserve fund.

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 will also extend 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

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.

The provisions of the bill that alter certain application and administrative procedures are not expected to materially affect State finances.

Small Business Effect: The Administration has determined that the bill has a meaningful impact on small businesses. DLS notes that the primary beneficiaries of the program are large, established corporations. In the tax credit evaluation of the program, DLS estimated 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 391 (The President, *et al.*) (By Request - Administration) - Budget and Taxation.

Information Source(s): Department of Commerce; Pitchbook; Department of Legislative Services

Fiscal Note History: First Reader - March 18, 2022
rh/jrb

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Appendix 1 – Fiscal Impact of Legislation
Fiscal 2023-2027

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

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: **Economic Development - More Jobs for Marylanders Program – Extension and Alterations**

BILL NUMBER: HB 418

PREPARED BY: Jake Whitaker

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

__ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

X___ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation consists of two parts:

- A sunset extension of More Jobs for Marylanders (MJM) through 2027 and
- An alteration of the way funds are transferred from the MJM Reserve Fund to the General Fund.

Both parts of the legislation would have meaningful benefits for Maryland small businesses. The extension would allow more Maryland small businesses to access the program and hire employees. Because of their size, small businesses often have less margin for error with hiring. If revenues slow or if a new worker is not as productive as hoped, the impact is larger in a firm with relatively few workers and less capital reserves. By effectively subsidizing the cost of new hires, MJM provides small businesses with flexibility in hiring and helps incentivize hires that otherwise would not have occurred.

The alteration of how funds are transferred from the MJM Reserve Fund to the General Fund will also benefit Maryland's small businesses in a similar way. The suggested alteration results in more money being available for businesses and this will benefit small businesses who otherwise may not have received support.

While MJM does not have a specific small business set aside, the Department of Legislative Services noted in its draft evaluation of MJM that "the More Jobs for Marylanders Program has greater participation by smaller employers compared to other tax credit programs as well as a lower concentration of credits among the largest claimants."

Additionally, the legislation creates benefits for small businesses that do not receive the credit directly. By supporting growth in manufacturing businesses, MJM ensures small businesses in the manufacturing supply chain have additional customers and additional opportunities to grow. Furthermore, the focus on disadvantaged areas including Tier One counties and Opportunity Zones, means additional employment and growth in struggling areas of the state. Small businesses in these areas, even those not directly receiving the credits, benefit from the implementation of the program and the support offered to critical parts of the state.