



Larry Hogan | Governor
Boyd Rutherford | Lt. Governor
Kelly M. Schulz | Secretary of Commerce

DATE: February 25, 2021
BILL NO: House Bill 1086
BILL TITLE: Maryland Tax Credit Evaluation Act – Alterations
COMMITTEE: House Ways & Means

Statement of Information

House Bill 1086 would mandate the adoption of regulations for certain newly authorized tax credits, and it would alter the evaluations to be conducted by the Department of Legislative Services under the Maryland Tax Credit Evaluation Act.

Maryland Tax Credit Evaluation Act Background:

The Maryland Tax Credit Evaluation Act of 2012 authorized a system of legislative review to determine whether a tax credit continues to be viable for the public interest. In specific, the Act:

- Established evaluation dates upon which reports of certain tax credits must be completed;
- Authorized the Tax Credit Evaluation Committee to make a plan for evaluation in consultation with certain agencies, and to make recommendations to the General Assembly on whether the tax credit should be continued, modified, or terminated; and
- Required the Department of Legislative Services to submit an evaluation report to the General Assembly on the purpose of the tax credit, whether the original intent of the tax credit is still appropriate, whether the tax credit is meeting its objectives, whether the purposes of the tax credit should be more efficiently and effectively be carried out through alternative methods; and the costs of providing the tax credit.

Since 2012, the Maryland Tax Credit Evaluation Act has been amended five times to expand the credits for evaluation. The following tax credits have been evaluated to date: Enterprise Zone, One Maryland, Earned Income, Film Production Activity, Heritage Structure Rehabilitation, Businesses that Create New Jobs, Research and Development, Biotechnology Investment Incentive, Regional Institution Strategic Enterprise Zone, and More Jobs for Marylanders.

The Maryland Tax Credit Evaluation Act serves a critical function of weighing the actual benefits and costs of tax credits. It also assists with the identification of unexpected outcomes of well-intended legislation which leads to positive changes in the either structure or administration of the tax credit.

Bill Summary:

House Bill 1086 would alter the RISE Zone program in the following ways:

- Require an agency administering a tax credit authorized after July 1, 2021 under Title 10, Subtitle 7 of the Tax-General Article and for which has an annual fiscal impact of \$5 million or more to adopt regulations providing for the administration of a credit *before* issuing a certificate of eligibility.
- Expand the Maryland Tax Credit Evaluation Act to include evaluations of tax credits, *exemptions, and preferences.*
- Eliminate the mandated evaluation dates of certain tax credits.
- Eliminate the Tax Credit Evaluation Committee.
- Authorize the Senate Budget and Taxation Committee, House Ways and Means Committee, the executive director of the Department of Legislative Services (the “Department”), or the director of the Office of Policy Analysis for the Department to request an evaluation of a certain tax credits, exemptions, and preferences to be conducted by the Department.
- Beginning October 1, 2022, require the Department to conduct an evaluation at least once every ten years of a tax credit that is “primarily claimed” by business entities and has an annual fiscal impact exceeding \$5 million, but allow an “expedited review” if the Department previously conducted an evaluation and there have been no substantial alternations to the tax credit since the previously evaluation was conducted.

Issues Raised:

The Department of Commerce has no programmatic concerns with expanding the scope and altering the mandated evaluations under the Maryland Tax Credit Evaluation Act. In fact, these changes would streamline the evaluation and reporting process to the General Assembly. It also creates efficiency by targeting only those incentives for evaluation that have a significant fiscal impact to the State or that were specifically requested to be evaluated by interested parties.

Commerce would like to point out, however, that the requirement for an agency to adopt regulations for certain newly authorized tax credits prior to issuing a certificate of eligibility would pose a significant hardship on the administering agency and delay the issuance of certificates to deserving businesses without a meaningful return to the public.