DATE: February 16, 2022
BILL NO: House Bill 478
BILL TITLE: Economic Development – Enterprise Zone Program – Alterations
COMMITTEE: House Ways and Means

Statement of Information

House Bill 478 would alter the Enterprise Zone program by placing restrictions on new designations and expansions, effectively sunsetting the income and property tax credits, requiring that the income and property tax credits be claimed on a first come, first serve basis subject to new statutory caps, and increasing the wage requirements of a qualified employee for the purposes of the income tax credit.

Enterprise Zone Program Background:

Enterprise Zones are a State-local partnership that allows local jurisdictions to prioritize areas for economic development. Designations of new zones or expansion of existing ones must meet, or be in reasonable proximity to an area that meet, a specific economic distress criterium:

- The average rate of unemployment in the area, or within a reasonable proximity to the area but in the same county, for the most recent 18-month period for which data available is at least 150% of the greater of the average rate of unemployment in either the State or the United States during that period; or
- The population in the area, or within a reasonable proximity to the area but in the same county, qualifies the area as a low-income poverty area; or
- At least 70% of the families in the area, or within a reasonable proximity to the area but in the same county, have incomes that are less than 80% of the median family income in the political subdivision that contains the area; or
- The population in the area, or within a reasonable proximity to the area but in the same county, decreased by 10% between the most recent two censuses, and the political subdivision can demonstrate to the Secretary's satisfaction that chronic abandonment or demolition of property is occurring in the area; or substantial property tax arrearages exist in the area.

The Secretary may not designate more than 6 zones in one year, and a county may not receive more than one designation or redesignation in a calendar year.

Local Enterprise Zone administrators generally agree that the Enterprise Zone real property tax credit is the most useful and effective tax credit available to businesses that locate or expand in an Enterprise Zone. Counties that have few other incentives to offer find that the property tax credits are central to implementing their economic development strategy. Several counties also noted that the credits are useful in retaining companies in the zone, as companies considering an expansion often decide to expand within the zone rather than move to another location outside of the zone, which could potentially send them to another county or even to another state.

Bill Summary:

House Bill 478 restricts the Secretary's ability to designate a new zone or expand an existing zone. The bill:

- Prohibits the Secretary from designating a new enterprise zone or expanding an existing enterprise zone if the aggregate amount of property tax credits to be claimed in the immediately preceding fiscal year is reasonably anticipated to exceed $60 million.
- Limits the use of "reasonable proximity" to areas with less than 1,500 residents for the purpose of designating and expanding zones that do not meet a distress criterium.
- Reduces the threshold for characterizing a zone expansion as a new designation from 50 percent of the size of the existing enterprise zone to only 25 percent. The Secretary is permitted to grant an extraordinary expansion if an area "merits inclusion in an enterprise zone for a compelling economic reason."
- Requires the Secretary to adopt regulations for the evaluation and prioritization of applications for designation and expansion of enterprise zones.

The bill places limitations on the enterprise zone and focus area income tax credits:

- Effectively sunsets the income tax credits by requiring the business to be eligible for the incentive before January 1, 2030.
- Increasing the wage requirement for a qualified employee from 150% of the federal minimum wage to 120% of the State minimum wage.
- Requiring the income tax credit to be claimed on a first come, first serve basis.
- Establishing an annual cap of $250,000 on the amount of credits claimed by a business entity.
- Establishing an annual cap of $1 million on the aggregate amount of income tax credits claimed by all business entities.

The bill places limitations on the enterprise real property tax credit:

- Effectively sunsets the real property tax credit by requiring the business to be eligible for the incentive before January 1, 2030.
- Establishing an annual cap of $500,000 on the amount of property tax credit claimed by a qualified property.

The bill also makes these administrative changes:

- Removes the Comptroller for mandated reporting with Commerce.
- Mandates SDAT to submit an annual report with specific criteria by September 15th of each year.
- Mandates each zone to submit an annual report with specific criteria by September 15th of each year, and authorizes the Secretary to withhold designation or expansion of an enterprise zone if the jurisdiction does not comply with mandated reporting.

- Requires Commerce to develop formal metrics and a framework to analyze the cost-effectiveness of each zone and effectiveness of each zone in attracting businesses and increasing employment.

Impact:

First, this bill prevents the Secretary from designating new zones if the Secretary "reasonably anticipates" the aggregate property tax credit claimed in the immediately preceding fiscal year exceeds $60 million. In fiscal years 2019 and 2020, the amount of property tax credits claimed were $60.2 million and $51.9 million, respectively. Under this new metric, the Secretary would not have been able to designate new zones or expansions in fiscal year 2020. This would have delayed the enterprise zone and focus area designation for Prince George's County and the expansion of the existing enterprise zone for Hagerstown-Washington County.

The result of this change is that the more success the Enterprise Zone program has in incentivizing high-value investments by businesses across the state, the more likely the program is to be frozen. By freezing the ability to designate or expand a zone, this could possibly prevent a large-scale business investment within Maryland, such as an attraction of a new headquarters or a major plant expansion. Additionally, this places a burden on jurisdictions not currently participating in the program by making them unable to participate due to activity levels in other jurisdictions.

Second, the bill requires each State enterprise zone to overlay a federal census tract for the purpose of qualifying the area. This utilizes federal census data in a way in which it was not designed to be used, is highly restrictive and would invalidate many zones that are currently in existence, either partially or fully. The ability for jurisdictions to use adjacent census tracts that have populations lower than 1,500 to justify a Zone designation will not alleviate this issue, as there are only 41 Tracts with this population level, 16 of which are located in Baltimore City. Of these 41, 23 are already contained within a Zone (13 of which are in Baltimore City). A *preliminary* analysis of the Census Tracts underlying existing zones was created to see how this new requirement would affect existing Zones. This preliminary analysis shows that half of the existing acreage in current Enterprise Zones is located outside a Census Tract that may qualify for the program. This percentage ranges from 100 percent in Queen Anne's County to zero percent in Dorchester County. This analysis is attached below.

Third, this bill sunsets eligibility for the enterprise zone incentives. In effect, an enterprise zone may not realize the full ten year benefit period of its designation because the business entity must move into or locate in the enterprise zone before January 1, 2030.

Fourth, the bill increases the minimum wage requirement of a qualified position for the purpose of the general and focus area income tax credits. This bill would adversely affect businesses that have earned the credit and are within the carryforward period as well as businesses currently earning the credit because the positions must meet the new increasing minimum wage.

Fifth, the bill establishes a first come, first serve order to claim the income tax credit and it establishes caps on the allowable amount of income and property tax credits claimed by businesses in a given year. These new limitations would apply to any business entity that moves into the enterprise zone after the effective date of the bill. The first come, first serve order puts businesses against each other in the race to file first. The cap diminishes the enterprise zone program as an effective incentive tool for economic development because businesses are no longer guaranteed to receive the benefit of the credits that they have earned.

Overall, these proposed changes shift the rationale for designating new zones and expanding existing zones to one based on the taxable value of property in lieu of focusing on the economic distress within local jurisdictions that warrant the designation of a zone in the first place. While Enterprise Zones only cover 1.4 percent of the State’s land area (87 thousand acres), they contain employment for 16 percent of all the State’s workers (420 thousand as measured by the Census Bureau’s LEHD program). For the 19 jurisdictions that use the program, that number rises to 18.5 percent, or almost one out of every five workers. While not all of these workers are employed by companies that have taken advantage of the program, the existence of the program in those areas has likely improved the business climate and helped those jurisdictions to retain and grow employment.

Qualification Status of Underlying Census Tracts

Jurisdiction	Acreage in Unqualified Tracts	Acreage in Qualified Tracts	Total Acres	Unqualified Percentage
Allegany	3,527	5,006	8,533	41.3%
Anne Arundel	256	159	415	61.7%
Baltimore	6,879	853	7,732	89.0%
Baltimore City	4,083	10,782	14,864	27.5%
Caroline	106	1,141	1,247	8.5%
Cecil	4,252	2,934	7,186	59.2%
Dorchester	1	2,517	2,518	0.0%
Frederick	1,598	298	1,896	84.3%
Garrett	369	247	616	60.0%
Harford	6,111	7,978	14,089	43.4%
Kent	6	1,080	1,086	0.5%
Montgomery	823	382	1,206	68.3%
Prince George's	4,944	3,567	8,511	58.1%
Queen Anne's	1,349	x	1,349	100.0%
Somerset	479	1,617	2,097	22.9%
Talbot	293	116	409	71.6%
Washington	4,664	1,613	6,277	74.3%
Wicomico	2,927	2,425	5,352	54.7%
Worcester	1,168	1,186	2,354	49.6%
Statewide	43,837	43,902	87,739	50.0%