Maryland
DEPARTMENT OF COMMERCE

Wes Moore | Governor
Aruna Miller | Lt. Governor
Kevin A. Anderson | Secretary of Commerce
Signe Pringle | Deputy Secretary of Commerce

DATE:	February 16, 2023
BILL NO:	House Bill 398
BILL TITLE:	Economic Development Tax Credit Programs - Qualified Position and Qualified Employee – Definitions
COMMITTEE:	House Ways and Means
POSITION:	Statement of Information

House Bill 398 imposes new requirements on the definition of a "qualified position" for the purposes of eligibility for the Enterprise Zone, More Jobs for Marylanders, and the One Maryland Tax Credit Programs. The requirements include raising the minimum wage and providing a number of different employee benefits. The bill raises the bar beyond "job creation" and diminishes the potency of State incentive programs in attracting businesses to establish and expand in the State.

The alterations to a "qualified position" would apply to any position filled after October 1, 2023. The alterations include:

- Increasing the wage requirement from 120% to 150% of the State minimum wage or to the prevailing wage rate if applicable
- Providing career advancement training
- Affording the employee the right to collective bargaining rights on wages and benefits
- Providing paid leave
- Providing coverage for unemployment insurance benefits
- Providing workers' compensation benefits
- Offering employer-provided health insurance with monthly premiums that do not exceed 8.5% of the employee's net monthly earnings
- Offering retirement benefits

Maryland generally has higher costs of doing business than our regional competitor states. Depending on the type of business and the state in question, higher costs could be attributed to real estate, wages, energy, taxes, or some combination thereof. Having these incentives helps mitigate some of the cost disadvantages versus the other states, which encourages the business to look at the opportunity to invest in Maryland more positively and provide a greater chance for a favorable decision.

As a small state bordering four other states, Maryland must always remain aware of the regional competition. All four neighboring states (Virginia, West Virginia, Pennsylvania, Delaware) have similar tax credits and financing programs, but none have the eligibility and reporting requirements proposed in this bill. Imposing tighter restrictions to qualify for Maryland's credit will put Maryland at a competitive disadvantage. As a direct and prompt result, the bill may cause site selectors, those recognized experts retained by business to assist with location decisions, and desirable growth businesses to deliberately overlook Maryland. The new demands may also increase the challenge of keeping desirable businesses in Maryland, to avoid erosion of the tax base and a greater burden that would be placed on the remaining businesses and their families.

Specific to the One Maryland Tax credit, Maryland's rural counties and Baltimore City – where the median household income is less than 75% of the State median household income – are particularly likely to be impacted by the wage requirement. While some projects may achieve the new 150% requirement, many other projects would not. Rural counties in Western Maryland and on the Eastern Shore – which regularly compete with neighboring areas in Pennsylvania, West Virginia and Delaware – would lose a competitive edge for projects that may consider locations across state lines.

Rural areas of Maryland for which wages of $18 to $20 per hour represent a fair, competitive wage would be priced out of these incentive programs. Most rural areas in Maryland do not have a mix of industry sectors that pay better wages as are more commonly found in the Baltimore-Washington corridor – life sciences, information technology, aerospace and defense, etc. Pricing out rural, Tier 1 counties goes against ongoing efforts to support rural Maryland.

The bill also impacts small businesses. While many medium and large businesses are statutorily required to provide certain benefits such as paid leave, unemployment insurance benefits and workers' compensation benefits – while small businesses below a certain employment level often do not – there are other benefits such as training and retirement benefits which may exceed the capacity of a small or startup business to provide.

Administratively, larger businesses are more likely to have more sophisticated and better staffed accounting functions, allowing them to better handle additional reporting requirements. By contrast, smaller businesses may have accounting systems may not be ready to handle the reporting requirements without some enhancements. As a result, the cost of adding new benefits and meeting the reporting requirements probably fall more heavily on small businesses.