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FISCAL AND POLICY NOTE
First Reader

Senate Bill 772

(Senator Hester)

Budget and Taxation

Small Business COVID–19 Relief Act of 2021

This emergency bill creates a subtraction modification of up to \$100,000 for tax year 2020 for specified small businesses affected by COVID-19. Contingent on eligible financial assistance being provided by the federal government in response to COVID-19 and being received in calendar 2021, the bill also establishes the Maryland COVID-19 Emergency Loan and Grant programs in the Department of Commerce and the Maryland COVID-19 Business Recovery Assistance program in the Small Business Development Center (SBDC) network. A related special fund is established for each program, which may only be used for each program's purpose. The bill expresses legislative intent that \$20.0 million of the financial assistance provided by the federal government be distributed to *each* fund, if the purposes of the related program are a permissible use of the financial assistance.

Fiscal Summary

State Effect: General fund revenues decrease significantly in FY 2021 and 2022 due to subtraction modifications claimed against the personal income tax. The Comptroller's Office estimates that revenues decrease by about \$160.0 million in FY 2021 and by about \$240.0 million in FY 2022. Transportation Trust Fund (TTF) and Higher Education Investment Fund (HEIF) revenues decrease in FY 2021 and 2022 to the extent subtraction modifications are claimed against the corporate income tax. Specific to the contingent programs, State finances are affected in FY 2021 and 2022 to the extent that the purposes for which potential federal funds would be used are affected (not shown below). General fund expenditures increase by \$60,000 in FY 2021 only.

(\$ in millions)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
GF Revenue	(\$160.0)	(\$240.0)	\$0	\$0	\$0
GF Expenditure	\$0.1	\$0	\$0	\$0	\$0
Net Effect	(\$160.1)	(\$240.0)	\$0.0	\$0.0	\$0.0

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

Local Effect: Local income tax revenues decrease by about \$100.0 million in FY 2021 and by about \$150.0 million in FY 2022 due to subtraction modifications claimed against the personal and corporate income tax. Specific to the contingent programs, local governments are affected to the extent that State grants to counties are awarded. Any such impact, however, is uncertain.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Eligibility

For purposes of any assistance available under the bill, who qualifies as an “eligible small business” varies slightly by program. However, generally a business is eligible if it:

- is independently owned and operated;
- is not a subsidiary of another business;
- is not dominant in its field of operation;
- is in good standing with the State;
- did not employ in its operations more than 50 (or even fewer, as discussed below) full-time equivalent employees during calendar 2019; and
- has experienced a reduction in gross revenue of at least 25%, as specified.

The subtraction modification also establishes that, to be eligible, a business cannot have earned more than \$5.0 million in gross revenues during calendar 2019. The Maryland COVID-19 Emergency Grant program establishes a lower employment cap (no more than 15 full-time equivalent employees during calendar 2019), and the Maryland COVID-19 Emergency Loan program establishes that an eligible small business must also be a small, minority, or women-owned business.

Subtraction Modification for Small Businesses Affected by COVID-19

A subtraction modification for tax year 2020 is created for the first \$100,000 of income earned by a taxpayer if the taxpayer is a small business that experienced more than a 25% reduction in income between its most recently completed fiscal year and the immediately preceding fiscal year. This provision is not contingent.

Contingent Financial Assistance Programs

Contingent on eligible financial assistance being provided by the federal government in response to COVID-19 in 2021, the Maryland COVID-19 Emergency Loan and Grant programs are established in Commerce and the Maryland COVID-19 Business Recovery Assistance program is established in SBDC. Each program has a related special fund. Subject to various specified requirements, loans, grants, and business support services are available to eligible small businesses under each of the programs. Loans are made directly by the loan program, and additional eligibility requirements apply. Funds for grants are distributed to counties, for further distribution to eligible small businesses. Business support services, which include access to professional services and off-the-shelf business software, are provided by SBDC.

Current Law: In response to COVID-19, several State agencies have administered a variety of programs to assist businesses, including small businesses, using federal and State funding sources. For example, Commerce administered a total of \$380.0 million in COVID-19 relief program funding in fiscal 2020 and 2021. The vast majority of the funding was provided in nearly equal amounts from the Coronavirus Aid, Relief, and Economic Security Act and the Rainy Day Fund. The operating budget analysis for Commerce, available on the Department of Legislative Services website, contains a thorough discussion of the use of these funds.

For an overview of the effects of COVID-19, including previous federal funding for Maryland to address the pandemic, see the **Appendix – COVID-19**.

SBDC offers free business consulting services to new and existing small businesses. The counseling provided ranges from best practices to financing to bringing all appropriate or applicable resources to the table. The network is organized across five regions, with more than 20 offices located throughout the State. Each SBDC must partner with at least one institution of higher education.

State Fiscal Effect: The subtraction modification and contingent assistance programs are discussed separately below.

Subtraction Modification for Small Businesses Affected by COVID-19

State Revenues: The bill creates a subtraction modification of up to \$100,000 in tax year 2020 for a qualified small business whose income in its most recent fiscal year decreased by more than 25% compared to the prior fiscal year. As a result, general fund revenues decrease significantly in fiscal 2021 and 2022. Based on the requirements of the bill, the Comptroller's Office estimates that general fund revenues decrease by about \$160.0 million in fiscal 2021 and by \$240.0 million in fiscal 2022 due to subtraction

modifications claimed against the personal income tax. TTF and HEIF revenues decrease to extent qualifying small business corporations claim subtraction modifications against the corporate income tax.

State Expenditures: The Comptroller’s Office reports that it incurs a one-time general fund expenditure increase of \$60,000 in fiscal 2021 to add the subtraction modification to the income tax forms. This includes data processing changes to the income tax return processing and imaging systems and systems testing.

Contingent Financial Assistance Programs

State Fiscal Effect: While overall federal fund expenditures are unaffected, the bill potentially affects the purposes for which up to \$60.0 million in federal funds are used –up to \$40.0 million through Commerce and up to \$20 million through SBDC. The bill’s intent language, however, is not a mandate, and any funding would be discretionary.

Therefore, federal fund expenditures for a particular agency or department are affected to the extent those federal funds are directed to a different purpose than they would be in the absence of the bill. Any such impact, however, depends on the amount of eligible federal funds received in calendar 2021, the amount of discretion the State has in spending those funds, whether funds are actually provided to the special funds in the bill, the extent to which any reallocated funds are used differently than they otherwise would have been, and any differences in required staffing or other administrative expenses. Special fund revenues and expenditures are similarly affected, depending on how federal funds would have otherwise been provided to State programs. For example, it is conceivable that Commerce would otherwise receive similar levels of funding for small business relief programs and, therefore, revenues and expenditures for the department would be largely unaffected.

Local Revenues: Based on the assumptions above, local income tax revenues decrease by about \$100.0 million in fiscal 2021 and by about \$150.0 million in fiscal 2022. Local highway user revenues decrease in fiscal 2021 and 2022 to the extent subtraction modifications are claimed against the corporate income tax. Specific to the contingent programs, local governments are affected to the extent that State grants to counties are awarded. Any such impact, however, is uncertain.

Small Business Effect: Small businesses benefit significantly from the subtraction modification in fiscal 2021 and 2022. Specific to the contingent programs, small businesses are affected in much the same way as local governments – that is, they are affected to the extent that the bill reallocates funding to or from particular small businesses.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 1014 (Delegate Qi) - Ways and Means.

Information Source(s): Department of Commerce; Comptroller's Office; University System of Maryland; Department of Budget and Management; Department of Legislative Services

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Appendix – COVID-19

In December 2019, a novel strain of coronavirus known as severe acute respiratory syndrome coronavirus 2 emerged in Wuhan, China. Coronavirus disease (COVID-19) is an infectious disease caused by this virus. As the number of cases spread globally by March 2020, the World Health Organization declared COVID-19 a pandemic.

Testing, Cases, and Deaths in Maryland

Maryland's first three confirmed cases of COVID-19 were recorded on March 6, 2020, with the first two deaths occurring March 16, 2020. As of January 27, 2021, Maryland reported a total of 346,559 confirmed cases, 31,468 individuals ever hospitalized, and 6,821 confirmed deaths. The jurisdictions with the highest number of cases have been Prince George's, Montgomery, and Baltimore counties and Baltimore City. Statewide, 8.4% of cases (28,954) and 45.9% of COVID-19 deaths (3,130) occurred in congregate living settings (*i.e.*, nursing homes, assisted living, and group homes). Updated data on COVID-19 in Maryland is available on the Maryland Department of Health (MDH) dashboard: <https://coronavirus.maryland.gov>.

Vaccines

In December 2020, the U.S. Food and Drug Administration approved both Pfizer-BioNTech and Moderna's COVID-19 vaccines for emergency use. Due to limited quantities, distribution began with priority groups as determined by states. Maryland began distribution in January 2021 with Phase 1A, which includes health care workers, residents and staff of nursing homes, first responders, public safety, corrections staff, and front-line Judiciary staff. Phase 1B began January 18, 2021, and includes residents of assisted living facilities and other congregate settings, adults age 75 and older, staff of K-12 schools and child care facilities, high-risk incarcerated individuals, and those involved in continuity of government. As of January 27, 2020, the State is in Phase 1C, which includes adults aged 65 and older, additional public safety and public health workers, and essential workers in food/agriculture, manufacturing, public transit, and the postal service. Phase 2 will include individuals aged 16 to 64 at increased risk of severe illness, incarcerated adults, and remaining essential workers. Phase 3 will include the general public. As of January 27, 2021, 852,625 doses of the vaccine have been distributed, and 419,579 doses have been administered (363,282 first doses and 56,297 second doses). Updated data is available on the MDH dashboard: coronavirus.maryland.gov/#Vaccine.

Declaration of a State of Emergency and Initial Executive Orders

On March 5, 2020, Governor Lawrence J. Hogan, Jr. declared a state of emergency and the existence of a catastrophic health emergency to deploy resources and implement the emergency powers of the Governor to control and prevent the spread of COVID-19. The declaration, which has been renewed several times (most recently January 21, 2021), initiated a series of executive actions, including moving the Maryland Emergency Management Agency to its highest activation level, activating the National Guard, and closing all public schools. The Governor then ordered the closure of in-house dining at bars and restaurants and banned mass gatherings of more than 50 people. This action was followed by a more extensive stay-at-home order on March 30, 2020, requiring closure of all nonessential businesses. This order remained in effect until May 15, 2020.

Emergency Legislation

Chapters 13 and 14 of 2020 (the COVID-19 Public Health Emergency Protection Act of 2020) authorized the Governor, for the duration of the emergency, to take actions relating to health insurance, Medicaid, retailer profits, employer actions, and personnel at State health care facilities as a result of the state of emergency and catastrophic health emergency. The Acts also authorize the Secretary of Labor to determine certain individuals eligible for unemployment insurance (UI) benefits due to COVID-19. The Acts terminate April 30, 2021.

Subsequent Executive Orders and Advisories

Since March 2020, the Governor has issued numerous executive orders relating to COVID-19, including (1) closing Maryland ports and harbors to passenger vessels; (2) expanding child care access; (3) expanding the scope of practice for health care practitioners, activating the Maryland Responds Medical Reserve Corps, controlling and restricting elective medical procedures, closing adult day care centers, and providing additional health care regulatory flexibility; (4) augmenting emergency medical services; (5) prohibiting price gouging; (6) fast tracking lab testing processes; (7) authorizing expanded telehealth services; (8) delegating authority to local health officials to control and close unsafe facilities; (9) extending certain licenses, permits, and registrations; (10) authorizing remote notarizations; (11) prohibiting evictions of tenants suffering substantial loss of income due to COVID-19, additionally prohibiting certain repossessions, restricting initiation of residential mortgage foreclosures, and prohibiting commercial evictions; (12) regulating certain businesses and facilities and generally requiring the use of face coverings; (13) establishing alternate health care sites and authorizing regulation of patient care space in health care facilities; and (14) implementing alternative correctional detention and supervision.

Federal Legislation Regarding COVID-19

Five federal emergency bills have been enacted to address the COVID-19 pandemic:

- the **Coronavirus Preparedness and Response Supplemental Appropriations Act**, which provided \$8.3 billion in emergency funds for federal agencies (including \$950 million through the U.S. Centers for Disease Control and Prevention for state and local response);
- the **Families First Coronavirus Response Act**, which addressed emergency family and medical leave and paid sick leave, specified insurance coverage of COVID-19 testing, and provided additional funding for nutrition assistance programs and unemployment benefits;
- the **Coronavirus Aid, Relief, and Economic Security (CARES) Act**, which included a Coronavirus Relief Fund for state and local governments; an Education Stabilization Fund for states, school districts, and institutions of higher education; a Disaster Relief Fund for state and local governments; additional funding for public health agencies to prevent, prepare for, and respond to COVID-19; funding for transit systems; an expansion and extension of eligibility for UI benefits, and additional temporary unemployment compensation of \$600 per week; \$349 billion for the establishment of the Paycheck Protection Program (PPP); a \$500 billion lending fund for businesses, cities, and states; and Economic Impact Payments to American households of up to \$1,200 per adult and \$500 per child;
- the **Paycheck Protection Program and Health Care Enhancement Act**, which provided an additional \$310 billion to PPP, \$75 billion for health care providers, \$60 billion for small business disaster loans, and \$25 billion for increased testing capacity; and
- the **Consolidated Appropriations Act, 2021, and Other Extensions Act**, which included \$908 billion in relief, including another \$284 billion for PPP, \$82 billion for schools, \$45 billion for transportation, \$25 billion in emergency assistance to renters, \$20 billion for vaccine distribution, \$13 billion for a major expansion in Supplemental Nutrition Assistance benefits, \$13 billion for agriculture and rural programs, \$10 billion for child care assistance, extended federal unemployment benefits of up to \$300 per week, extended the federal moratorium on evictions through January 31, 2021, and provided a second stimulus payment of up to \$600 per person.

Federal Funding for Maryland to Address COVID-19

The CARES Act and the Families First Coronavirus Response Act provided Maryland with a significant amount of federal aid. More than \$6 billion in assistance has been made available to the State and local governments, including an enhanced federal matching rate for Medicaid. More than \$900 million was directly provided to local governments. The largest and most flexible portion of CARES Act funding is the Coronavirus Relief Fund, which totals \$2.3 billion, \$691 million of which was allocated directly to Baltimore City and Anne Arundel, Baltimore, Montgomery, and Prince George's counties.

CARES Act funding also included \$800 million for the Disaster Recovery Fund; \$696 million for transit grants; \$575 million in enhanced Medicaid matching funds (through December 2020); \$239 million in CDC grants; \$108 million for airports; \$74 million for community development block grants; \$50 million for homelessness assistance; \$46 million for grants for local education agencies and higher education institutions; \$46 million for child care and development block grants; \$36 million for public housing and rental assistance grants; \$24 million for community health centers; \$20 million for senior nutrition; \$19 million for energy assistance; \$18 million for justice assistance grants; \$17 million for administration of the UI program; \$14 million for community service block grants; \$13 million for emergency food assistance; \$8 million for Head Start; \$8 million for the Women, Infants, and Children program; and \$7 million for election security.

The Consolidated Appropriations Act is estimated to provide Maryland with \$1.2 billion for education (including \$869 million for K-12 education, \$306 million for higher education, and \$57.7 million for the Governor's Fund); \$1.1 billion for transportation (including \$830.3 million for transit in the Washington, DC area, \$149.3 million for highways, \$76.2 million for transit in Baltimore, \$22.5 million for airports, and \$9.1 million for rural area grants); more than \$475 million for health (including \$335.6 million for testing, \$75.3 million for vaccines, \$32.6 million for mental health assistance, and \$31.9 million for substance use assistance); \$402.4 million for rental assistance; and \$140.6 million for human services (including \$130.4 million for child care).