

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 478

(Delegate Palakovich Carr)

Ways and Means

Budget and Taxation

Economic Development - Enterprise Zone Program - Alterations

This bill alters the Enterprise Zone program by (1) altering the authority of the Secretary of Commerce to designate areas as enterprise zones; (2) altering the definitions of “focus area employee” and “qualified employee” for the income tax credit; (3) establishing the purpose of the program; and (4) altering certain eligibility and reporting requirements. **The bill takes effect June 1, 2022.**

Fiscal Summary

State Effect: No effect in FY 2022. General fund expenditures may decrease beginning in FY 2023 due to a decrease in areas designated as enterprise zones. However, in FY 2023 only, general fund expenditures increase by \$120,000 due to implementation costs at the Comptroller’s Office. State income tax revenues may increase beginning in FY 2023 due to a reduction in tax credits claimed against the income tax.

Local Effect: Local property tax revenues, net of decreased revenues from State reimbursements of local property tax revenue, may increase annually beginning in FY 2023. Expenditures are likely not materially affected.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Enterprise Zone and Focus Area Designations

Under current law, the Secretary may designate annually six enterprise zones and one extraordinary expansion. A county may not receive more than two enterprise zone

designations in a calendar year. The Secretary may approve the expansion of an existing enterprise zone by up to 50% in size without the expansion counting toward the statutory limits. The bill lowers this threshold by establishing that an expansion may not be more than 25% in size in order to not count toward the limit. The Secretary may continue to approve an extraordinary expansion, including if the Secretary determines the area merits inclusion in an enterprise zone for a compelling economic reason.

The Secretary must adopt regulations governing the evaluation and prioritization of applications for enterprise zone and expansion designations.

Reporting Requirements

The bill requires the State Department of Assessments and Taxation (SDAT), the Comptroller's Office, and local governments to report to the Department of Commerce each year specified information on the program and requires Commerce to develop formal metrics and a framework for analyzing each enterprise zone. The bill relieves the Comptroller from jointly assessing and reporting on the effectiveness of the program with Commerce.

The Secretary is prohibited from designating a new enterprise zone or granting an expansion in a county if, after notification from Commerce of the required report, the county fails to submit it.

Income Tax Credit

The bill alters the definitions of "focus area employee" and "qualified employee." For both definitions, an employee must earn 120% of the State minimum wage instead of 150% of the federal minimum wage. Among existing qualifications, a qualified employee is an individual who is hired to fill a newly created position or, if the individual is an economically disadvantaged individual, is hired to fill a position previously held by another economically disadvantaged individual. These provisions apply beginning with tax year 2022.

Current Law: The Enterprise Zone tax credit program, established in 1982, is intended to encourage economic growth within economically distressed areas of the State and to increase employment of the chronically unemployed. Businesses located within an enterprise zone are eligible for local property tax credits and State income tax credits. Real property tax credits are 10-year credits against local real property taxes on a portion of the qualifying real property improvements in the enterprise zone. The income tax credit is based on the wages paid during the taxable year to each qualified employee and vary in value and length of time depending on whether the employee is certified by the Maryland Department of Labor as being economically disadvantaged and if the business is located in

a focus area. There are enhanced income tax credits available for businesses that are also located in opportunity zones.

The Secretary of Commerce may designate one or more State enterprise zones within 60 days of a political subdivision's submission for an enterprise zone designation. Once approved, the enterprise zone designation is effective for 10 years. At any time, a political subdivision may reapply to the Secretary to designate another area as an enterprise zone. Pursuant to Chapter 362 of 2006, a business located in an enterprise zone may apply for the property tax credit for an additional five years following the expiration of the zone.

SDAT reimburses local governments (through the department's annual general fund budget) for 50% of the property tax revenue decrease that results from the property tax credit. There is no established limit to the amount that the State may reimburse local governments.

State Fiscal Effect:

Property Tax Reimbursements

The fiscal 2023 budget, as enacted, includes \$27.0 million in local property tax reimbursements, equating to \$54.0 million in aggregate property tax credits based on the existing 50% State reimbursement. The bill limits the expansion of enterprise zones by establishing that an expansion may not be more than 25% in size. Additionally, the Secretary of Commerce is prohibited from designating a new enterprise zone or granting an expansion in a county if the county fails to submit a specified report. Thus, general fund expenditures may decrease beginning in fiscal 2023.

Income Tax Credits

Provisions of the bill may increase State income tax revenues. Along with provisions of the bill that restrict new or expanded enterprise zones, altering the definition of "qualified employee" may decrease income tax credits and thereby increase State revenues beginning in fiscal 2023.

Administrative Costs

Commerce and SDAT can implement the bill with existing budgeted resources. The Comptroller's Office must report specified information to Commerce and incurs a one-time general fund expenditure increase of \$120,000 in fiscal 2023 to add data capture fields to the personal income and corporate income tax forms, which includes data processing changes to the income tax return processing and imaging systems and systems testing.

Local Fiscal Effect: Local property tax credits may decrease beginning in fiscal 2023 as a result of a decrease in new or expanded enterprise zones. SDAT reimburses local governments for 50% of the property tax revenue decrease, so reimbursements decrease.

Local governments can likely comply with the enhanced reporting requirements with existing budgeted resources.

Small Business Effect: Small businesses that do not receive tax credits under the Enterprise Zone program – generally due to a limit on zone expansions – are negatively affected. Likewise, small businesses that receive fewer credits due to the other changes to the program are negatively affected.

Additional Information

Prior Introductions: A similar bill, HB 805 of 2021, received a hearing in the House Ways and Means Committee, but no further action was taken.

Designated Cross File: None.

Information Source(s): Baltimore City; Anne Arundel, Harford, Howard, Montgomery, and Prince George’s counties; Department of Commerce; Comptroller’s Office; State Department of Assessments and Taxation; Department of Legislative Services

Fiscal Note History: First Reader - February 15, 2022
rh/rjr Third Reader - March 30, 2022
Revised - Amendment(s) - March 30, 2022
Enrolled - May 6, 2022
Revised - Amendment(s) - May 6, 2022
Revised - Budget Information - May 6, 2022

Analysis by: Heather N. MacDonagh

Direct Inquiries to:
(410) 946-5510
(301) 970-5510