

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 148 (Delegate Palakovich Carr)
 Ways and Means

Economic Development - Enterprise Zone Program - Alterations

This bill alters the Enterprise Zone Program by (1) terminating the program effective January 1, 2031; (2) altering the authority of the Secretary of Commerce to designate and expand enterprise zones and to designate focus areas; (3) limiting the maximum value and total amount of income tax credits that can be claimed in each year; and (4) limiting the annual maximum value of the property tax credit. A business entity that locates in an enterprise zone before the January 1, 2031 program termination date remains eligible for program benefits, provided that the business meets the requirements and conditions of the code section applicable to the benefit. **The bill takes effect June 1, 2023.**

Fiscal Summary

State Effect: No effect in FY 2023. General fund expenditures decrease by \$0.5 million in FY 2024, escalating to \$2.5 million in FY 2028, under the assumptions discussed below. State income tax revenues may increase beginning in FY 2024 due to a reduction in tax credits claimed against the income tax, but the amount is likely minimal in most years.

(\$ in millions)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
GF/SF Rev.	-	-	-	-	-
GF Expenditure	(\$0.5)	(\$1.0)	(\$1.5)	(\$2.0)	(\$2.5)
Net Effect	\$0.5	\$1.0	\$1.5	\$2.0	\$2.5

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

Local Effect: Local property tax revenues increase beginning in FY 2024. The increase is partially offset by the loss of State reimbursements. Expenditures are likely not materially affected.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Enterprise Zone and Focus Area Designations

Under current law, the Secretary of Commerce may designate an area as an enterprise zone or a focus area within a zone so long as the entire geographic area, or area within a reasonable proximity but in the same county of the proposed area, meets at least one economic distress standard. The bill requires that each census tract within the area meet the applicable economic distress standard. The reasonable proximity standard can only be applied if fewer than 1,500 individuals reside in the census tract.

The bill also prohibits the Secretary from designating a new enterprise zone or granting an expansion of an existing zone in a calendar year if the Secretary reasonably anticipates that the aggregate amount of property tax credits claimed under the Enterprise Zone Program for the preceding fiscal year may exceed \$60.0 million. If this condition is met, 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.

Income Tax Credit

For a taxable year after December 31, 2022, the aggregate amount of tax credits claimed by businesses may not exceed \$2.0 million. Each business is limited to claiming a maximum of \$250,000.

Property Tax Credit

For a taxable year after June 30, 2023, the amount of property tax credit granted to a qualified property may not exceed \$500,000.

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.

A law enacted that eliminates or reduces the benefits available to a business entity under the Enterprise Zone Program does not apply to a business entity that was in an enterprise zone before the effective date of the law.

The State Department of Assessments and Taxation (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 2024 budget as introduced includes \$27.0 million in local property tax reimbursements, equating to \$54.0 million in aggregate property tax credits based on the 50% State reimbursement. A little less than half of the aggregate amount, \$23.0 million, is attributable to 21 properties that receive annual credits of \$500,000 or more.

Current law prohibits a reduction in future enterprise zone benefits available to a business entity that was in an enterprise zone before the effective date of a law change. Therefore, this analysis assumes that the current 21 properties with credits of \$500,000 or more are not affected by the bill, but newly qualified properties are affected going forward.

The effect on general fund expenditures is difficult to predict because large enterprise zone credits occur relatively infrequently; however, the recent trend has been about \$500,000 in new State property tax reimbursements each year for projects large enough to be affected by the bill. The effect stacks each year as new projects become eligible. Therefore, this estimate assumes general fund expenditures decrease by \$0.5 million in fiscal 2024, escalating by \$0.5 million each year to \$2.5 million in fiscal 2028, as shown in **Exhibit 1**. Any particularly large projects (for example, the current largest credit is \$5.0 million annually) would further reduce general fund expenditures.

Exhibit 1
State Property Tax Reimbursements
Fiscal 2024-2028
(\$ in Millions)

	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>	<u>FY 2028</u>
General Fund Expenditures	(\$0.5)	(\$1.0)	(\$1.5)	(2.0)	(\$2.5)

Source: Department of Legislative Services

Since the aggregate amount of credits in fiscal 2024, \$54.0 million, is below the \$60.0 million threshold established by the bill and new credits are limited to \$500,000 annually, the Secretary of Commerce is likely not prohibited from designating or expanding enterprise zones in the next several years. Nevertheless, these provisions may limit the creation or expansion of enterprise zones in the future and further decrease general fund expenditures from the estimates above.

Income Tax Credits

According to recent income tax data provided by the Comptroller, limiting the income tax credit to \$250,000 per business and \$2.0 million in aggregate in a year likely does not have a fiscal impact in most years. However, to the extent that credits would otherwise exceed these limits in any year, State income tax revenues increase.

Restricting new or expanded enterprise zones may increase State income tax revenues in future years.

Administrative Costs

Commerce can implement the bill with existing budgeted resources. The Comptroller's Office incurs a one-time general fund expenditure increase of \$5,000 in fiscal 2024 to add data capture to its corporate income tax forms; this analysis assumes the costs are absorbable within existing budgeted resources. SDAT did not indicate the need for any additional expenditures to implement the bill.

Local Fiscal Effect: Local property tax revenues increase beginning in fiscal 2024 due to the \$500,000 limit on enterprise zone property tax credits applying to newly qualified properties that would have otherwise received a larger credit. The increase is partially offset by the loss of larger SDAT reimbursements.

This analysis does not include any effect on local revenues due to enterprise zones not designated or expanded under the bill.

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

Small businesses that are no longer eligible to receive property and/or income tax credits due to the termination of the program are negatively affected.

Additional Comments: The Department of Legislative Services (DLS) completed an evaluation of the Enterprise Zone Program under the Tax Expenditure Evaluation Act (formerly the Tax Credit Evaluation Act) in December 2022. The report can be found on the DLS [website](#).

Of the 21 properties with property tax credits of more than \$500,000, 10 are in Baltimore City, 4 are in Baltimore County, 5 are in Cecil County, and 1 is in each of Prince George’s and Washington counties.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See HB 478 of 2022; HB 805 of 2021; and HB 1117 of 2020.

Designated Cross File: None.

Information Source(s): Department of Commerce; Comptroller’s Office; State Department of Assessments and Taxation; Somerset County; Department of Legislative Services

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km/lgc

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