

Legislative Report

A round-up of economic, employment and business legislation from Maryland's 2018 Legislative Session

During the 2018 Session of the Maryland General Assembly, lawmakers once again considered a record number of bills, including a robust legislative package introduced by the Administration that covered a wide variety of important issues. Much of the session focused on responding to federal tax reform legislation that was signed into law at the end of 2017 as well as issues relating to school funding and safety.

Lawmakers also approved a major economic development initiative introduced by Governor Larry Hogan: the Promoting extraordinary Innovation in Maryland's Economy (PRIME) Act to help attract Amazon's HQ2 to Maryland. Governor Hogan worked closely with the legislature to ensure that this landmark proposal passed with bi-partisan support.

Of the 3,101 bills introduced this session, 890 were passed, most of which are expected to be signed into law by Governor Hogan.

Administration Initiatives

Senate Bill 134 – Small Business Tax Relief Credit

Creates a credit against the State income tax for a small business that employs fewer than 15 employees and provides paid sick leave to a qualified employee who earns less than 250% of the annual federal poverty guidelines for a single-person household. The credit is \$500 per qualified employee. Commerce administers the credit which is capped at \$5M. Effective July 1, 2018 and applies to tax year 2018 and beyond.

Senate Bill 228 – Cybersecurity Incentive Tax Credits

Extends the sunset on the Cybersecurity Investment Incentive Tax Credit through fiscal year 2023 and alters the program to award the credit to the investor instead of the company. It also creates a tax credit against the State income tax for a qualified buyer who purchases cybersecurity technology or service from a qualified Maryland company. The amount of this credit is equal to 50% of the cost, not to exceed \$50,000 per buyer. Effective June 1, 2018 and applies to all tax credit certificates issued after June 30, 2018.

Senate Bill 877 – Promoting extraordinary Innovation in Maryland's Economy (PRIME Act)

This Administration bill is designed to attract a Fortune 100 company that pays an average salary of \$100,000 annually at a newly created headquarters facility in Maryland. The company must commit to spending a minimum of \$4.5 billion in capital expenditures over 17 years as well as employ at least 40,000 people within that 17-year period. If those benchmarks are met, the legislation provides the following benefits for 10 years: (1) a credit against the state income tax equivalent to 5.75% of wages per qualifying job, (2) a credit against the State and local property tax, half of which is reimbursed by the State to the local jurisdiction, and (3) an

exemption from the sales and use tax for construction and building materials as well as for interior office equipment and furnishings for use at the project site. Effective June 1, 2018.

Senate Bill 305/House Bill 363 – More Jobs for Marylanders Act 2.0

Alters the definition of "Qualified Distressed County" and renames it to be "Tier I county". Allows Tier I counties to elect three industry sectors in addition to manufacturing to be eligible to receive the benefits of the program. Also extends the sunset on the program and increases the maximum credits that can be awarded. **This bill failed.**

Departmental Initiatives

Senate Bill 989/House Bill 1295 – One Maryland Economic Development Tax Credits – Simplification and Alteration

Modifies the One Maryland Economic Development Tax Credit Program as well as the definition of a Qualified Distressed County for use in this program and other Commerce programs. The changes to the One Maryland Tax Credit program are: (1) changing the minimum salary for a qualifying position from 150% of the federal minimum wage to 120% of the State minimum wage; (2) eliminating the start-up credit; (3) creating a tiered structure for projects and associated tax credits based on the number of qualifying positions; (4) tax credits may be claimed against the entirety of the income of the business rather than solely on the income attributable to the One Maryland project; (5) tax credits may be carried forward for 10 years as opposed to 14; (6) geographic eligibility is expanded by modifying the relevant income criteria; and (7) a qualified business entity must report the amount of the project tax credit that it claims each year to Commerce. The term "Qualified Distressed County" is now replaced by "Tier 1 County" and one of the

qualifications is changed from 67% of statewide average per capita income to 75% of the statewide median household income. Effective July 1, 2018 and applies to certifications of qualified business entities issued after June 30, 2018.

Senate Bill 67 – Maryland Economic Development Assistance Authority and Fund – Renaming and Revising

Renames the Maryland Economic Development Assistance Authority and Fund (MEDAAF) to be the Advantage Maryland Fund. Adds working capital as an eligible use of the fund within certain restrictions. Increases the maximum loan, grant, or investment to \$5M. **This bill failed.**

Senate Bill 1082/House Bill 855 – State Government – Regulations Impacting Small Businesses – Economic Impact Analyses

Alters the regulation promulgation and enforcement process and requires State agencies to consider specified mitigation options when assessing civil penalties on small businesses. Also requires DBM to provide related training at least once every two years and requires the Governor to designate an appropriate entity to conduct a related feasibility study. **This bill failed.**

Fiscal Year 2019 Budget

The FY 2019 Commerce Operating Budget, resulting from legislative actions, is \$150M.

Funding levels for selected Economic & Tourism Development Programs:

- Continued funding of the Maryland Economic Development Assistance Authority and Fund with \$25M of Special Funds.
- \$10M in funding for the More Jobs for Marylanders Tax Credit Program. The credit, created during the 2017 legislative session, will create thousands of jobs by reducing taxes for manufacturing employers in qualifying high-unemployment areas.
- \$1M for the Partnership for Workforce Quality, marking the second year of recapitalizing this popular program.
- Level funding of the Biotechnology Investment Incentive Tax Credit Program at \$12M.
- \$4.9M in total funding for the Maryland Small Business Development Financing Authority.
- \$2M in general funds for the Cybersecurity Investment Incentive Tax Credit Program.
- \$2M in total for the Maryland Marketing Partnership to continue the State's "Open for Business" campaign.
- \$13.1M in total funding for Tourism Development. This funding includes \$11.9M in General Funds to continue the highly successful travel and tourism marketing program statewide.
- \$22.7M in total for the Maryland State Arts Council (MSAC), including \$20.7M in General Funds. This represents a record level of state investment in Maryland's arts & cultural assets.

- \$10M in funding for the annual payments to Northrop Grumman (\$5M) and Marriott International (\$5M) through the State's Sunny Day Fund. There is an additional \$10M in the Sunny Day Account that demonstrates the Governor's commitment to attracting Amazon's new corporate headquarters.

Tax Incentive Legislation

Senate Bill 563 – Income Tax Credit – Qualified Research and Development Expenses – Application for and Procedure to Claim Credit

Changes the procedure to claim the Research and Development (R&D) Tax Credit. The taxpayer will now have the option of either claiming the tax credit for the tax year in which the expenses were incurred or in subsequent years after receiving the tax credit certification from Commerce. Effective July 1, 2018.

Senate Bill 564 – Income Tax Credit – Security Clearance Costs – Procedure to Claim Credit

Changes the procedure to claim the Employer Security Clearance Tax Credit. The taxpayer will now have the option of either claiming the tax credit for the tax year in which the expenses were incurred or in subsequent years after receiving the tax credit certification from Commerce. Effective July 1, 2018.

Senate Bill 848/House Bill 302 – Income Tax Credit – Wineries and Vineyards – Procedures to Claim Credit and Sunset Extension

Changes the procedures to claim the Wineries and Vineyards Tax Credit. The taxpayer will now have the option of either claiming the tax credit for the tax year in which the expenses were incurred or in subsequent years after receiving the tax credit certification from Commerce. The bill also extends the sunset on the program from 2018 to 2021. Effective June 1, 2018 and applicable tax years 2018 and following.

Senate Bill 1154 – Income Tax – Film Production Activity Tax Credit – Alterations

Alters the existing Film Production Activity Tax Credit program by eliminating the program's reserve fund and creating a set-aside of 10% of the annual authorized credit amount for qualified small or independent film entities. For FY 19 the credit is authorized to a maximum level of \$8M and for each fiscal year thereafter it increases by \$3M until it reaches \$20M. A single film production activity may not claim more than \$10M in the aggregate. Effective July 1, 2018 and applicable tax years 2018 and following.

Tax Policy Legislation

Senate Bill 184/House Bill 365 – Income Tax – Personal Exemptions – Alteration

Clarifies that for the State income tax a taxpayer can deduct/claim an exemption for the taxpayer, the taxpayer's spouse, and eligible dependents. Also directs the Bureau of Revenue Estimates, in consultation with the Consensus Revenue Monitoring and Forecasting Group, to review and update its January 2018 report on the effects of the federal tax law on

the State of Maryland. This bill restores personal exemptions in Maryland. These exemptions had been tied to the federal exemptions which were eliminated through the federal tax legislation signed into law in 2017. Effective July 1, 2018.

Senate Bill 318/House Bill 570 – Income Tax – Standard Deduction – Alteration

Alters the State standard deduction by increasing the maximum value from \$2,000 to \$2,250 for single filers and from \$4,000 to \$4,500 for joint filers. Indexes, based on the annual cost of living, the value of the State standard deduction. This minimizes the fiscal impact on Maryland taxpayers as a result of the federal standard deduction doubling beginning in tax year 2018. Effective for tax year 2018 and following.

Senate Bill 1090/House Bill 1794 – Corporate Income Tax – Single Sales Factor Apportionment

Phases in single sales factor apportionment to the State for the corporate income tax over a five-year period beginning in tax year 2018. By tax year 2022, most corporations subject to the corporate income tax that carry on trade or business both within and out of Maryland must allocate to the State the part of the corporation's Maryland modified income attributed to activity in the state using an apportionment formula in which Maryland modified income is multiplied by 100% of the sales factor. Companies meeting specified worldwide headquarters requirements are exempted. Effective July 1, 2018 and applies to tax year 2018 and beyond.

Workforce Development Legislation

Senate Bill 204 – Higher Education – Cybersecurity Public Service Scholarship Program

Establishes the Cybersecurity Public Service Scholarship Program for students pursuing an education directly relevant to cybersecurity. Recipients must complete a one-year service obligation for each year a scholarship is received or repay the State for the scholarship. Effective July 1, 2018.

House Bill 527 – Higher Education – Maryland Technology Internship Program – Alterations

Alters the Maryland Technology Internship Program to incorporate units of State and local government and remove the limit on how many employees a business may have to participate. Allows UMBC and Commerce to change the maximum amount of reimbursement based on market conditions. Effective July 1, 2018.

House Bill 1542 – Department of Commerce – Employment in the State's Defense Industry – Study

Requires Commerce, along with the Maryland Department of Veterans Affairs (MDVA) and the Department of Labor, Licensing, and Regulation (DLLR), to conduct a study of employment in the State's defense industry. The study must include an estimate of the number and type of defense industry jobs in the State facing shortages in the next decade among other things. The study is not required if Commerce is unable to secure grant funding from the U.S. Department of Defense to pay for the grant, and the study is due by June 30, 2019. Effective July 1, 2018.

Other Economic Development Bills

Senate Bill 1085/House Bill 1385 – Baltimore City – Tourism Improvement District

Authorizes Baltimore City to establish a tourism improvement district that imposes a special assessment on the businesses in the district. Also authorizes Baltimore City to designate an existing private nonprofit designation marketing organization to administer the district's programs and activities. Effective July 1, 2018.

Senate Bill 1201/House Bill 698 – Agriculture – Industrial Hemp Pilot Program – Establishment

Establishes an Industrial Hemp Pilot Program administered by the Maryland Department of Agriculture. Also excludes hemp from the definition of "marijuana" under criminal law provisions addressing controlled dangerous substances. Effective July 1, 2018.

Key Bills that Failed

There has been consistent support for these measures in some form or another. We can expect to see continued support for them in the future, and as such they can be viewed as a precursor for what will be important issues both in the Interim and in the 2019 legislative session.

Senate Bill 632/House Bill 817 – Maryland Smart Growth Investment Fund

Requires Commerce to issue a request for proposals (RFP) to select a management entity to establish the Maryland Smart Growth Investment Fund. The Governor may appropriate \$3.75M in FYs 2020 and 2021 to the fund, but Commerce is not required to invest the funds if the capital in the fund is less than \$25M on December 31, 2020.

Senate Bill 810/House Bill 1208 – Job Reinvestment Act of 2018

Creates an additional income tax credit for qualified small businesses located within Enterprise Zones and RISE Zones. The credit may be claimed over 5 tax years, and in each year is equal to a specified percentage of the wages that are withheld from qualified employees. Specifies that qualified property for purposes of the RISE zone property tax credit includes personal property located in a focus area.

Senate Bill 955/House Bill 526 – Income Tax – Angel Investor Tax Credit Program

Creates a new tax credit program for investors who make qualified investments in Maryland innovation businesses. The credit is equal to 50% of the qualified investment of a qualified innovation business located in Baltimore City or Anne Arundel, Baltimore, Howard, Montgomery, or Prince George's counties, or equal to 66% of the qualified investment in a qualified innovation business in any other county. The credit is limited to \$50,000 for an individual or \$100,000 for married couples that file jointly or a pass-through entity. Funding for the credit would be subject to an appropriation to a reserve fund.

Senate Bill 956/House Bill 1370 – Alcoholic Beverages – Maryland Beer and Brewery Promotion Program – Establishment

Establishes the Maryland Beer and Brewery Promotion Program and Fund in the Department of Commerce. The Program would provide grants to eligible applicants designed to promote Maryland beer, assist Maryland breweries, and educate the public about brewing in Maryland. The fund would consist of revenue collected from the existing tax on beer produced at Maryland breweries.

Senate Bill 966 – RISE Zones – Expansion and Income Tax Credit

Expands the RISE Zone Program by creating an additional income tax credit for qualified businesses in a RISE Zone as well as increasing from three to six the number of zones Commerce may designate within a county or municipality.

Senate Bill 1151 – Income Tax – Biotechnology Investment Incentive Tax Credit – Alterations

Alters the Biotechnology Investment Incentive Tax Credit (BIITC) by placing a per-company cap of 10% of the total appropriations to the reserve fund for that fiscal year. Also sets a limit of \$7M per company in aggregate funding for all fiscal years. Specifies that it is the intent of the General Assembly that the tax credit program will encourage and incentivize private-sector investment in Maryland biotechnology companies.

Senate Bill 1248/House Bill 1233 – Small, Minority, and Women Owned Businesses Account – Funding

Restores funding to the Small, Minority, and Women Owned Businesses Account for Fiscal Years 2019 and 2020.

House Bill 518 – Alcoholic Beverages – Reform on Tap Act of 2018

This bill, requested by the Comptroller, makes changes to the regulation of Class 5, 6, 7, and 8 breweries in the State.

House Bill 521 – Income Tax – Research and Development Credit – Small Business Set-Aside

Requires Commerce to set aside 20% of the maximum amount of the Research and Development Tax Credit

Program for small businesses.

House Bill 750 – Economic Development Income Tax Credits – Multiple Claims – Prohibition

Prohibits a business from using the same project or job to qualify for and claim more than one of the following programs (1) Enterprise Zone Tax Credit; (2) Regional Institution Strategic Enterprise (RISE) Zone; (3) Job Creation Tax Credit; (4) One Maryland Tax Credit; (5) Aerospace, Electronics, or Defense Contract Tax Credit; (6) More Jobs for Marylanders Tax Credit; and (7) Film Production Activity Tax Credit.

House Bill 1450 – Income Tax – Research and Development Tax Credit – Alterations

Increases the maximum amount of the Research and Development Tax Credit Program from \$12M to \$14M and requires Commerce to set aside 25% of the maximum amount for small businesses.

House Bill 1471 – Workgroup to Study Design Industry Impacts in Maryland

Establishes the Workgroup to Study Design Industry Impacts in Maryland to be staffed by the Department of Commerce with assistance from the Morgan State University School of Architecture and Planning. The workgroup must report its findings and make recommendations by December 31 each year.

House Bill 1763 – Biotechnology Investment Tax Credit – Approval of Applications – Competitive Award Process

Requires the Biotechnology Investment Incentive Tax Credit (BIITC) to be awarded on a competitive basis as opposed to a first-come first-serve basis. Requires the Department of Commerce to develop criteria for the approval of applications of the BIITC based on criteria that are used in similar financial ~~assistance programs.~~

For more information please contact the Department's Office of Policy, Research and Government Affairs at 410-767-6312.

