

MEMORANDUM

May 16, 2016

TO: County Council

FROM: Josh Hamlin, Legislative Attorney 

SUBJECT: **Action:** Expedited Bill 14-16, Taxation – New Jobs Tax Credit and Enhanced New Jobs Tax Credit – Amount of Tax Credit - Term of Credit

**Government Operations and Fiscal Policy Committee recommendation (3-0): Enact Expedited Bill 14-16.**

Expedited Bill 14-16, Taxation – New Jobs Tax Credit and Enhanced New Jobs Tax Credit – Amount of Credit - Term of Credit, sponsored by Lead Sponsor Council President at the request of the County Executive, was introduced on April 19. A public hearing was held on May 10 and a Government Operations and Fiscal Policy Committee worksession was held on May 12.

Bill 14-16 would change to term during which the Enhanced New Jobs Tax Credit may be claimed from 12 taxable years to 24 taxable years.

**Background**

Under State law, the County may provide by law for a property tax credit for certain businesses that create at least 25 new, permanent, full-time jobs. The County may also provide for an “enhanced” property tax credit for certain businesses that expend at least \$150 million to obtain at least 700,000 square feet of new or expanded business premises (through purchase, construction, or lease), and employ at least 1,100 individuals full-time, including at least 500 in new, permanent full-time jobs. Individuals in all of these positions must receive an employer-provided subsidized health care benefit package, be paid at least 150% of the federal minimum wage,<sup>1</sup> and work in the new or expanded premises, or in newly renovated premises neighboring the new or expanded premises.

The County has implemented this authority, and provided for a “New Jobs Tax Credit and Enhanced New Jobs Tax Credit” (see ©6-10). These credits are applied against the business’ County property tax, in amounts and for terms set forth in the law. In general terms, the amount of the New Jobs Tax Credit decreases over the first six taxable years that it is allowed, and is not allowed after the sixth taxable year. The Enhanced New Jobs Tax Credit is 58.5% of the property tax imposed on the *increase in assessment* of the new or expanded premises and any substantially

<sup>1</sup> 150% of the federal minimum wage of \$7.25 per hour is \$10.88. Under County law, effective July 1, 2017, the County minimum wage will be \$11.50 per hour.

renovated real property adjoining or neighboring the new or expanded premises. Under current law, the Enhanced credit may be claimed in each of the first 12 taxable years after the Director certifies eligibility. The fiscal impact of these two credits since 1999 is shown in the Tax Expenditure Report prepared by the Department of Finance (see ©11-12).

In 2012, the General Assembly amended the State enabling law (see ©13-16), changing the 12-year period in which the Enhanced credit is allowed to 24 years. This Bill will amend the County law to be consistent with that change to State law.

### **Public Hearing**

A public hearing on the Bill was held on May 10, at which there was one speaker. Michael Coveyou of the Department of Finance spoke on behalf of the County Executive in support of the Bill (©21).

### **Issues**

#### **1. Is the enactment of the Bill essentially a pro forma action, due to provisions in State law?**

As mentioned above, prior to a 2012 amendment, the State enabling law authorized local governments to enact a law allowing the Enhanced New Jobs Tax Credit to be claimed for a term of 12 years. This 12-year term is reflected in the existing County law that this Bill would amend, and the threshold question for the Council's consideration of the Bill is whether the County has any discretion in setting a term that is different from that set in State law.

Both Council staff and the County Attorney's Office interpret certain provisions of the State law as precluding the County from providing for the credit for a term different from that set in State law. The State enabling law, Maryland Tax-Property Code § 9-230 provides that "[a]fter a business entity has complied with all the requirements provided in this section and in any applicable local law for a particular credit, the business entity shall be entitled to claim the credits for *the term provided in this section*." (Emphasis supplied) The "term provided in this section" is 24 years. Also, the 2012 Bill that amended the term from 12 to 24 years contains an uncodified section that reads: "it is the intent of the General Assembly that the extension of the duration of the tax credits provided for under this Act shall apply to any business entity or affiliate of a business entity that qualified for the tax credits before the effective date of this Act." (See ©15)

Together, these two provisions in the State enabling law appear to divest the County from exercising discretion as to the length of the term of the credit. In particular, the uncodified section in the 2012 Bill seems to directly preclude any variance from the term provided in State law for an already-eligible business. Under this reading of the law, enactment of this Bill is essentially a pro forma action – the length of the term of the credit was effectively extended with the enactment of the 2012 law.

#### **2. What is the fiscal impact of the Bill?**

According to the Fiscal and Economic Impact Statement (see ©16), the fiscal impact of extending the term of the Enhanced New Jobs Tax Credit will be approximately \$1.7 million per

year for the next six fiscal years. To date, only one company has qualified for the credit. It is possible that there will be an additional impact, should other companies qualify, but such impact would not be realized until 12 years after such companies become eligible for the credit.

**3. What happens if a qualified recipient of the Enhanced New Jobs Tax Credit reduces its workforce below the eligibility threshold or otherwise does not meet the eligibility requirements?**

State law authorizes, and County law provides for, the recapture of allowed credits if a business claiming the credit does not meet the credit's eligibility requirements. County Code § 52-73 provides that if a business does not satisfy all of the eligibility requirements to claim the credit during the three taxable years after any year when a credit was allowed, the business must repay the tax credit to the County after receiving notice from the Finance Director. Further, any unrepaid tax credit is a lien on real and personal property owned by the business entity in the same manner as unpaid real property taxes under state and County law.

On May 5, the Washington Post ran a story about Discovery Communications, the only County business eligible for and receiving the credit, announcing a round of voluntary buyouts that may lead to layoffs later this year.<sup>2</sup> The story indicated that Discovery employs approximately 1,500 people locally. To be eligible to claim the credit, among other things, an employer must employ at least 1,100 people in the County.<sup>3</sup> The most recent available information indicates that local employment at Discovery is 1,563. Using this number, if Discovery reduces its County workforce by 464 positions, it would not meet the 1,100 jobs requirement and would not be eligible for the credit, and would have to repay any credits allowed during the three preceding tax years.<sup>4</sup>

**4. Should the Council enact the Bill?**

As discussed above, the term of the Enhanced New Jobs Tax Credit was effectively extended to 24 years by the General Assembly in 2012. Expedited Bill 14-16 will simply make the provision in the County Code consistent with that in State law, which would likely govern regardless. If the Council wishes to consider imposing additional eligibility requirements for the credit, it may do so in separate legislation.

<sup>2</sup> [https://www.washingtonpost.com/business/capitalbusiness/discovery-announces-buy-outs-possible-layoffs/2016/05/05/5810adec-12bc-11e6-8967-7ac733c56f12\\_story.html](https://www.washingtonpost.com/business/capitalbusiness/discovery-announces-buy-outs-possible-layoffs/2016/05/05/5810adec-12bc-11e6-8967-7ac733c56f12_story.html)

<sup>3</sup> MD Tax-Property Code § 9-230(d)(1) provides that “[f]or a business entity to qualify for an enhanced property tax credit under this subsection, the business entity, along with its affiliates, shall:

- \* \* \*
- (iii) in Montgomery County only:
  - 1. expend at least \$150 million to obtain at least 700,000 square feet of new or expanded premises by purchasing newly constructed premises, constructing new premises, causing new premises to be constructed, or leasing newly constructed premises; and
  - 2. employ a total of at least 1,100 individuals in full-time positions consisting of both full-time positions of indefinite duration and contract positions of definite duration lasting at least 12 months with an unlimited renewal option, and including at least 500 individuals in new permanent full-time positions, with all positions:
    - A. receiving an employer provided subsidized health care benefits package;
    - B. paying at least 150% of the federal minimum wage; and
    - C. located in the new or expanded premises and, if applicable, in newly renovated premises adjoining or otherwise neighboring the new or expanded premises.

<sup>4</sup> Similarly, if the square footage of Discovery's "premises" went below the 700,000 square foot eligibility threshold, it would also cease to be eligible to claim the credit and be subject to the law's recapture provisions.

**Committee recommendation (3-0):** Enact Expedited Bill 14-16.

This packet contains:

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Expedited Bill No. 14-16  
Concerning: Taxation – New Jobs Tax  
Credit and Enhanced New Jobs Tax  
Credit – Amount of Tax Credit – Term  
of Credit  
Revised: April 13, 2016 Draft No. 1  
Introduced: April 19, 2016  
Expires: October 19, 2017  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsor: Council President at the request of the County Executive

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**AN EXPEDITED ACT to:**

- (1) change the term of the Enhanced New Jobs Tax Credit; and
- (2) generally amend the law governing the Enhanced New Jobs Tax Credit

By amending

Montgomery County Code  
Chapter 52, Taxation  
Article X, New Jobs Tax Credit and Enhanced New Jobs Tax Credit  
Section 52-72

**Boldface**

Underlining

**[Single boldface brackets]**

Double underlining

**[[Double boldface brackets]]**

\* \* \*

*Heading or defined term.*

*Added to existing law by original bill.*

*Deleted from existing law by original bill.*

*Added by amendment.*

*Deleted from existing law or the bill by amendment.*

*Existing law unaffected by bill.*

*The County Council for Montgomery County, Maryland approves the following Act:*

1 **Sec. 1. Section 52-72(b) is amended as follows:**

2 **52-72. Amount of tax credit; pass-through to lessees.**

3 (a) The new jobs tax credit that a taxpayer may claim against County  
4 property taxes under this Article is the following percentage of the  
5 property tax imposed on the assessment of the new or expanded  
6 premises:

7 (1) 52% during the first and second taxable years in which a credit is  
8 allowed;

9 (2) 39% during the third and fourth taxable years in which a credit is  
10 allowed; and

11 (3) 26% during the fifth and sixth taxable years in which a credit is  
12 allowed.

13 After the sixth taxable year, the Finance Director must not allow a new jobs  
14 tax credit under this Article.

15 (b) The enhanced new jobs tax credit that a taxpayer may claim against  
16 County property taxes under this Article is 58.5% of the property tax  
17 imposed on the increase in assessment of:

18 (1) the new or expanded premises; and

19 (2) any substantially renovated real property adjoining or  
20 neighboring the new or expanded premises. A renovation is

21 substantial for purposes of this subsection if the renovation  
22 results in a complete rehabilitation of at least 50% of each  
23 building on the property.

24 The taxpayer may claim this credit in each of the first [12] 24 taxable years  
25 after the Director certifies that the taxpayer is eligible for the credit.

26 (c) A lessor of real property must reduce the amount of taxes for which an  
27 eligible business entity is contractually liable under a lease or rental  
28 agreement by the amount of any tax credit allowed under this Article.

29 **Section 2. Expedited Effective Date**

30 The Council declares that this legislation is necessary for the immediate  
31 protection of the public interest. This Act takes effect on the date on which it  
32 becomes law.

33 *Approved:*

34 \_\_\_\_\_  
Nancy Floreen, President, County Council Date

35 *Approved:*

36 \_\_\_\_\_  
Isiah Leggett, County Executive Date

37 *This is a correct copy of Council action.*

38 \_\_\_\_\_  
Linda L. Lauer, Clerk of the Council Date

## LEGISLATIVE REQUEST REPORT

Expedited Bill 14-16

*Taxation - New Jobs Tax Credit and Enhanced New Jobs Tax Credit – Amount of Tax Credit - Term of Credit*

**DESCRIPTION:** This Bill would amend County law by changing the term of the Enhanced New Jobs Tax Credit from 12 to 24 years, as is currently allowed under State law.

**PROBLEM:** In 2012, the State changed the term during which the Enhanced New Jobs Tax Credit may be claimed by an eligible taxpayer.

**GOALS AND OBJECTIVES:** Align the County law with the State law.

**COORDINATION:** Department of Finance

**FISCAL IMPACT:** To be requested.

**ECONOMIC IMPACT:** To be requested.

**EVALUATION:** Subject to the general oversight of the County Executive and the County Council.

**EXPERIENCE ELSEWHERE:** Unknown

**SOURCE OF INFORMATION:** Michael J. Coveyou, Chief, Division of Treasury, Department of Finance

**APPLICATION WITHIN MUNICIPALITIES:** None

**PENALTIES:** None



OFFICES OF THE COUNTY EXECUTIVE  
Rockville, Maryland 20850

Isiah Leggett  
County Executive

MEMORANDUM

April 5, 2016

TO: Nancy Floreen, Council President

FROM: Isiah Leggett, County Executive 

SUBJECT: New Jobs Tax Credit Legislative Amendment

I am recommending an amendment to Chapter 52-72 of the County Code to change the term of the Enhanced New Jobs Tax Credit from twelve to twenty-four years, as is currently allowed under State law. I believe this change is consistent with our shared priority of attracting and retaining key industries within the County to promote sustainable economic growth and new job creation.

I urge the Council to support this legislation. My staff are available to respond to any questions you may have on this amendment or provide additional clarification.

Attachments

cc: Timothy L. Firestine, Chief Administrative Officer  
Joseph F. Beach, Director, Department of Finance  
Jennifer A. Hughes, Director, Office of Management and Budget  
Patrick Lacefield, Director, Public Information Office  
Sally Sternbach, Acting Director, Department of Economic Development  
Joy Nurmi, Special Assistant to the County Executive  
Bonnie Kirkland, Assistant Chief Administrative Officer  
Lily Qi, Assistant Chief Administrative Officer  
Michael Coveyou, Chief, Division of Treasury, Department of Finance

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**Article X. New Jobs Tax Credit and Enhanced New Jobs Tax Credit.**

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**Sec. 52-69. Tax credits.**

The Director of Finance must allow a new jobs tax credit or an enhanced new jobs tax credit against the County property tax imposed on real property owned or leased by a business entity or its affiliate and on personal property owned by that business entity or its affiliate if the business entity qualifies for either credit under this Article. (1998 L.M.C., ch. 9, § 1; 1999 L.M.C., ch. 16, § 1.)

**Sec. 52-70. Definitions.**

In this Article, the following words have the meanings indicated:

(a) Affiliate, Business Entity, New or Expanded Premises, New Permanent Full-Time Position, and Notification Date have the meanings defined in Section 9-230, Tax-Property Article, Maryland Code, or any successor provision.

(b) Finance Director means the Director of the Department of Finance or the Director's designee.

(c) New Jobs Tax Credit means the credit granted under this Article to a qualified business entity against the County property tax imposed on the new or expanded premises and the personal property located on those premises.

(d) Enhanced New Jobs Tax Credit means the credit granted under this Article to a qualified business entity against the County property tax imposed on the new or expanded premises that qualify under state law for an enhanced new jobs credit and the personal property located on those premises. (1998 L.M.C., ch. 9, § 1; 1999 L.M.C., ch. 16, § 1.)

**Sec. 52-71. Eligibility for tax credit.**

(a) To qualify for a new jobs tax credit under this Article, a business entity must, on

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or after July 1, 1998:

(1) construct, or expand by at least 5,000 square feet, premises in the County on which it conducts business by buying, building, or leasing new premises; and

(2) employ at least 25 persons in new permanent full-time positions located in the new or expanded premises in the County during a 24-month period when it occupies the new or expanded premises.

(b) To qualify and be certified for an enhanced new jobs tax credit under this Article, a business entity must, on or after December 31, 1998:

(1) notify the Finance Director as required under state law; and

(2) meet all requirements under state law to qualify for an enhanced new jobs tax credit.

(c) A business entity does not qualify for a new jobs tax credit or enhanced tax credit if:

(1) the business entity has moved the operations which are located on new or expanded premises from another county (including Baltimore City) in Maryland;

(2) the business entity or another taxpayer has been given a tax credit or exemption for the new or expanded premises during the same taxable year under any other state or County law;

(3) the new permanent full-time positions are solely or primarily involved in retail sales of goods or services, except when a small number of positions involved in retail sales are incidental to the primary purpose of a building;

(4) the business entity is a type of business entity that the County Council by resolution before the Notification Date has made ineligible for a new jobs tax credit or enhanced new jobs tax credit, or the new permanent full-time positions are a type of position that the Council by resolution before the Notification Date has made ineligible for a new jobs tax credit or enhanced new jobs tax credit, or the new or expanded premises are located in a geographic area that the Council by resolution before the Notification Date has made ineligible for a new jobs tax credit or enhanced new jobs tax credit; or

(5) the location of the new or expanded premises is inconsistent with any applicable land use master plan.

(d) To qualify for a credit against property tax imposed on personal property, a business entity must certify that the personal property is located on premises that qualify for a new jobs tax credit or enhanced new jobs tax credit under this Article. (1998 L.M.C., ch. 9, § 1;

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1999 L.M.C., ch. 16, § 1.)

**Sec. 52-72. Amount of tax credit; pass-through to lessees.**

(a) The new jobs tax credit that a taxpayer may claim against County property taxes under this Article is the following percentage of the property tax imposed on the assessment of the new or expanded premises:

- (1) 52% during the first and second taxable years in which a credit is allowed;
  - (2) 39% during the third and fourth taxable years in which a credit is allowed;
- and
- (3) 26% during the fifth and sixth taxable years in which a credit is allowed.

After the sixth taxable year, the Finance Director must not allow a new jobs tax credit under this Article.

(b) The enhanced new jobs tax credit that a taxpayer may claim against County property taxes under this Article is 58.5% of the property tax imposed on the increase in assessment of:

- (1) the new or expanded premises; and
- (2) any substantially renovated real property adjoining or neighboring the new or expanded premises. A renovation is substantial for purposes of this subsection if the renovation results in a complete rehabilitation of at least 50% of each building on the property.

The taxpayer may claim this credit in each of the first 12 taxable years after the Director certifies that the taxpayer is eligible for the credit.

(c) A lessor of real property must reduce the amount of taxes for which an eligible business entity is contractually liable under a lease or rental agreement by the amount of any tax credit allowed under this Article. (1998 L.M.C., ch. 9, § 1; 1999 L.M.C., ch. 16, § 1.)

**Sec. 52-73. Recapture of tax credit.**

(a) A business entity which does not satisfy all applicable requirements under this Article to qualify for a tax credit during the three taxable years after any year when a credit was allowed must repay the tax credit to the County after receiving notice from the Finance Director

## MONTGOMERY COUNTY CODE

that the credit must be repaid.

(b) Interest must accrue on any repayable tax credit at the rate established for overdue property taxes, beginning 30 days after the notice from the Finance Director.

(c) Any unrepaid tax credit is a lien on real and personal property owned by the business entity in the same manner as unpaid real property taxes under state and County law. (1998 L.M.C., ch. 9, § 1; 1999 L.M.C., ch. 16, § 1.)

### **Sec. 52-74. Administration of tax credit.**

(a) A business entity must apply for either tax credit on a form furnished by the Finance Director, and must state which tax credit it intends to request and when and how it expects to qualify for the credit.

(b) When a business entity believes it has met all requirements for the tax credit, it may apply for certification on a form furnished by the Director, and must provide sufficient information to show that all requirements under this Article and applicable state law have been met.

(c) The Finance Director must:

(1) determine the eligibility of the business entity for the tax credit;

(2) notify the State Department of Assessments and Taxation that a business entity has been approved for the tax credit; and

(3) require submission of reports by the business entity during the three taxable years after any year when the tax credit was earned to verify that the business entity continues to satisfy all applicable requirements under this Article.

(d) A person who submits a false or fraudulent application, or withholds information, to obtain a tax credit under this Article has committed a Class A violation. In addition, the person must repay the County for all amounts credited and all accrued interest and penalties that would apply to those amounts as overdue taxes. A person who violates this subsection is liable for all court costs and expenses of the County in any civil action brought by the County against the violator. The County may collect any repayable tax credit, and otherwise enforce this Article, by any appropriate legal action.

(e) The County Executive may adopt regulations under method (2) to administer this Article. (1998 L.M.C., ch. 9, § 1; 1999 L.M.C., ch. 16, § 1; 2001 L.M.C., ch. 28, §§ 12, 15 and 16.)

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**Editor's note**-The effective date of the amendments made to this section by 2001 L.M.C., ch. 28, § 12, is the same effective date as 1999 L.M.C., ch. 16, § 1.

## New Jobs Tax Credit

### Description

This program consists of the New Jobs Tax Credit and the Enhanced New Jobs Tax Credit, and benefits businesses that are planning to increase both their space and staff. A business seeking either credit must notify the County of its intent to claim the credit *before* the expansion. This credit is applied against the General County and Special Service Area real property taxes.

### *New Jobs Tax Credit*

This is a six-year credit available to businesses that increase their space by at least 5,000 square feet and their employee count by at least 25 new jobs. Businesses that are already resident in the County or that are moving from outside of Maryland are eligible to apply. The credit is not available to businesses that move to Montgomery County from another Maryland county or Baltimore City, and it is not available to retailers. The 25 new jobs must be permanent full-time positions and must last for at least 24 months. The new space must be occupied during the period the business retains the 25 new employees. The credit is based on the increase in both real and personal property tax assessments resulting from the business's expansion. The credit decreases over six years, as follows:

- Years 1 and 2: Credit = 52% of tax attributable to the assessment increase
- Years 3 and 4: Credit = 39%
- Years 5 and 6: Credit = 26%

New Jobs Tax Credit recipients receive an additional State of Maryland tax credit which uses the same calculation method. However, the State credit is given against one of the following taxes and requires that recipients file Form 500CR with their State of Maryland Income Tax return:

- Corporate or personal income taxes
- Financial institutions franchise tax
- Insurance premiums tax

### *Enhanced New Jobs Tax Credit*

This 12-year credit benefits large expansion projects and is available when businesses either:

1. Increase their space by at least 250,000 square feet, and *either* (A) create 1,250 new permanent, full-time positions *or* (B) create 500 new permanent, full-time positions in addition to retaining at least 2,500 existing permanent, full-time positions, OR
2. Expend at least \$150 million to obtain at least 700,000 square feet of new space and employ at least 1,100 individuals, with at least 500 being in new, permanent, full-time positions.

To qualify for the Enhanced New Jobs Tax Credit, a business must pay all these employees at least 150% of the federal minimum wage and it must be engaged in one of the following industries:

- Manufacturing, mining, transportation, communications, agriculture, forestry or fishing
- Research, development, testing or biotechnology
- Computer programming, data processing, or other computer-related services
- Central financial, real estate, or insurance services
- Operation of central administrative offices or a company headquarters
- Public utility, warehousing, or business services

A business has six years from the notification date to create and fill the required number of new jobs and acquire and inhabit the new space. When this is accomplished and the business files a completed application, the business will begin receiving the credit. The Enhanced Tax Credit, like the regular New Jobs Tax Credit, is given against the local real and personal property tax and is based on the amount of additional taxes due as a result of the expansion. Unlike the regular New Jobs Tax Credit, however, the Enhanced Tax Credit is calculated at the same rate for all 12 years. The rate is 58.5% of the additional local tax liability.

The State also will give a credit based on this additional local tax liability. The State credit is 31.5% for each of the 12 years and is given against the same State taxes as the regular New Jobs Tax Credit (corporate or personal income taxes, the financial institutions franchise tax, or the insurance premiums tax). Both the regular and enhanced State tax credits allow a business to “roll” the credit for up to five years. This means that if the State tax credit is higher than the amount of taxes due in any given year, the business can claim the difference for up to five years. Both tax credits also contain a “recapture” provision that requires a business to repay the credits if they fail to maintain the job and space requirements for three years. This provision is applicable to each individual year, so that if a business maintains the requirements for 14 years, it will have to repay only the last year of the credit.

Authority

Montgomery County Code, Chapter 52, Article X

Effective Date

July 1, 1998

Contact

Montgomery County Treasury in Rockville, MD at (240) 777-8931

Fiscal Impact:

<u>Levy Year</u>	<u>Amount (\$)</u>	<u>Recipients</u>
2014	1,284,939	2
2013	1,379,483	2
2012	1,391,761	2
2011	1,344,424	2
2010	1,342,339	2
2009	1,449,507	5
2008	1,444,926	8
2007	2,479,151	10
2006	2,501,136	14
2005	2,743,060	14
2004	2,911,520	14
2003	2,465,987	12
2002	863,011	6
2001	109,749	2
2000	35,220	1
1999	30,137	1

2012 Maryland Laws Ch. 128 (H.B. 592)

MARYLAND 2012 SESSION LAWS

REGULAR SESSION

Additions are indicated by **Text**; deletions by  
~~Text~~ .

Vetoed are indicated by ~~Text~~ ;  
stricken material by **Text** .

Chapter 128

H.B. No. 592

TAX CREDIT FOR BUSINESSES THAT CREATE NEW JOBS--ENHANCED CREDIT--EXTENSION

AN ACT concerning

**Tax Credit for Businesses That Create New Jobs--Enhanced Credit--Extension**

FOR the purpose of extending the duration of certain property tax and State tax credits granted to certain business entities that construct or expand certain business premises under certain circumstances; declaring the intent of the General Assembly; providing for the application of this Act; and generally relating to property and State tax credits granted to certain business entities.

BY repealing and reenacting, with amendments,  
Article--Tax--Property  
Section 9--230(d)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article--Tax--Property**

<< MD TAX PROPERTY § 9--230 >>

**9--230.**

(d)(1) For a business entity to qualify for an enhanced property tax credit under this subsection, the business entity, along with its affiliates, shall:

- (i) 1. obtain at least 250,000 square feet of new or expanded premises by purchasing newly constructed premises, constructing new premises, causing new premises to be constructed, or leasing newly constructed premises;
2. continue to employ at least 2,500 individuals in existing permanent full-time positions paying at least 150% of the federal minimum wage and located at premises in the State where the business entity, along with its affiliates, is primarily engaged in one or more of the industries listed in paragraph (2) of this subsection; and
3. employ at least 500 individuals in new permanent full-time positions paying at least 150% of the federal minimum wage and located in the new or expanded premises, and, if applicable, in newly renovated premises adjoining or otherwise neighboring the new or expanded premises;

(ii) 1. obtain at least 250,000 square feet of new or expanded premises by purchasing newly constructed premises, constructing new premises, causing new premises to be constructed, or leasing newly constructed premises; and

2. employ at least 1,250 individuals in new permanent full-time positions paying at least 150% of the federal minimum wage and located in the new or expanded premises and, if applicable, in newly renovated premises adjoining or otherwise neighboring the new or expanded premises; or

(iii) in Montgomery County only:

1. expend at least \$150 million to obtain at least 700,000 square feet of new or expanded premises by purchasing newly constructed premises, constructing new premises, causing new premises to be constructed, or leasing newly constructed premises; and

2. employ a total of at least 1,100 individuals in full-time positions consisting of both full-time positions of indefinite duration and contract positions of definite duration lasting at least 12 months with an unlimited renewal option, and including at least 500 individuals in new permanent full-time positions, with all positions:

A. receiving an employer provided subsidized health care benefits package;

B. paying at least 150% of the federal minimum wage; and

C. located in the new or expanded premises and, if applicable, in newly renovated premises adjoining or otherwise neighboring the new or expanded premises.

(2) For a business entity to qualify for an enhanced property tax credit under this subsection, the business entity, along with its affiliates, shall be primarily engaged in one or more of the following at the qualifying premises:

(i) manufacturing or mining;

(ii) transportation or communications;

(iii) agriculture, forestry, or fishing;

(iv) research, development, or testing;

(v) biotechnology;

(vi) computer programming, data processing, or other computer-related services;

(vii) central services as defined in § 6-101 of the Economic Development Article;

(viii) the operation of central administrative offices or a company headquarters as defined in § 6-101 of the Economic Development Article;

(ix) a public utility;

(x) warehousing; or

(xi) business services.

(3) To qualify for the enhanced property tax credit under this subsection, a business entity shall:

(i) within a 6-year period beginning on the notification date, employ individuals in the number of new permanent full-time positions required under paragraph (1) of this subsection;

(ii) during the 6-year hiring period, obtain and occupy the new or expanded premises and, if applicable, the newly renovated premises adjoining or otherwise neighboring the new or expanded premises; and

(iii) during the 6-year hiring period, comply with all other requirements for the credits described in this subsection and in any applicable local law.

(4)(i) If a business entity meets the requirements of this subsection and subsection (b) of this section and of applicable local law adopted under subsection (b)(1) of this section, for each of the first ~~12~~ 24 taxable years after it qualifies for the credit, a property tax credit may be claimed against the county or municipal corporation property taxes that would otherwise be due.

(ii) The county or municipal corporation shall compute the amount of the property tax credit granted to equal 58.5% of the amount of property tax imposed on the increase in assessment of:

1. the new or expanded premises;
2. newly renovated real property improvements adjoining or otherwise neighboring the new or expanded premises, if the renovations are substantial, as defined in legislation enacted by the county or municipal corporation to grant the credits under this subsection; and
3. the personal property located on the premises described in items 1 and 2 of this subparagraph.

(iii) The increase in assessment shall be measured from the notification date to the applicable annual assessment date after the county or municipal corporation has certified that the business entity has qualified for the credit.

(5) On receipt of notification under subsection (b)(7) of this section that a business entity has been certified for an enhanced property tax credit under this subsection, the Department shall compute and certify to the Comptroller or, in the case of the insurance premiums tax, the Maryland Insurance Commissioner the amount of the State tax credit authorized under this subsection that may be claimed by the business entity or any of its affiliates against the individual or corporate income tax, insurance premiums tax, or financial institution franchise tax that would otherwise be due to equal 31.5% of the amount of property tax imposed on the increase in assessment of the real and personal property described in paragraph (4)(ii) of this subsection for each of the first ~~12~~ 24 taxable years for which the credit is allowed.

(6) If a business entity or any of its affiliates claim the enhanced tax credits under this subsection for a certain premises, they may not claim the tax credits under subsection (c) of this section.

<< Note: MD TAX PROPERTY § 9-230 >>

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the extension of the duration of the tax credits provided under this Act shall apply to any business entity or affiliate of a business entity that qualified for the tax credits before the effective date of this Act.

<< Note: MD TAX PROPERTY § 9-230 >>

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012, and shall be applicable to all taxable years beginning after December 31, 2012.

Approved April 10, 2012.

Effective date: July 1, 2012.



ROCKVILLE, MARYLAND

MEMORANDUM

April 25, 2016

TO: Nancy Floreen, President, County Council

FROM: Jennifer A. Hughes, Director, Office of Management and Budget  
Joseph F. Beach, Director, Department of Finance

SUBJECT: FEIS for Bill 14-16E, Taxation – New Jobs Tax Credit and Enhanced New Jobs Tax Credit – Amount of Tax Credit – Term of Credit

Please find attached the fiscal and economic impact statements for the above-referenced legislation.

JAH:fz

cc: Bonnie Kirkland, Assistant Chief Administrative Officer  
Lisa Austin, Offices of the County Executive  
Joy Nurmi, Special Assistant to the County Executive  
Patrick Lacefield, Director, Public Information Office  
Joseph F. Beach, Director, Department of Finance  
David Platt, Department of Finance  
Jane Mukira, Office of Management and Budget  
Alex Espinosa, Office of Management and Budget  
Nacem Mia, Office of Management and Budget

**Fiscal Impact Statement**  
**County Executive Bill 14-16E, Taxation – New Jobs Tax Credit and Enhanced New Jobs Tax Credit – Amount of Tax Credit – Term Credit**

1. Legislative Summary

This bill extends the term of the Enhanced New Jobs Tax Credit (ENJTC) to 24 years from the current 12 years.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

Since the adoption of the ENJTC only one company has received the credit and the estimate of the annual effect of the credit is reduced revenues of \$1.7 million. This estimate is predicated on the extension of that one credit. This credit will be in effect, assuming no other companies receive the credit, through FY2027.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

Increased tax credit (or reduced tax revenues) of approximately \$1.7 million for the next 6 fiscal years.

4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

NA

5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.

NA

6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

NA

7. An estimate of the staff time needed to implement the bill.

None

8. An explanation of how the addition of new staff responsibilities would affect other duties.

None (see #7)

9. An estimate of costs when an additional appropriation is needed.

NA

10. A description of any variable that could affect revenue and cost estimates.

If other companies become eligible, the credit would cost more.

11. Ranges of revenue or expenditures that are uncertain or difficult to project.

None

12. If a bill is likely to have no fiscal impact, why that is the case.

NA

13. Other fiscal impacts or comments.

None

14. The following contributed to and concurred with this analysis:

Mike Coveyou, Finance Department

Jane Mukira, Office of Management and Budget

  
\_\_\_\_\_  
Jennifer A. Hughes, Director  
Office of Management and Budget

4/26/16  
Date

**Economic Impact Statement**  
**Bill 14-16, Taxation – New Jobs Tax Credit and Enhanced New Jobs Tax Credit -  
Amendment**

**Background:**

This legislation would extend the term of the Enhanced New Jobs Tax Credit (ENJTC) to twenty-four (24) taxable years from the current twelve (12) taxable years.

**1. The sources of information, assumptions, and methodologies used.**

Based on data provided by the Treasury Division, Department of Finance, there is one company currently receiving the ENJTC. That company had 796 employees at the time they intended to claim the ENJTC. When the company qualified for the ENJTC, employment reached 1,637 – an increase of over one hundred percent. As of July 2015, there were 1,668 employees. Based on the sample of one company, extending the credit may increase employment by 800 employees which is the difference between the number of employees before qualifying for the ENJTC and after qualification.

Data provided by Treasury Division show that the company received \$1.138 million in property tax credits in FY2004 and \$1.665 million in FY2015. That is, the company received a credit of \$695 per employee in FY2004 (\$1.138 million/1,637) and a credit of \$998 per employee in FY2015 (\$1.665/1,668). Once the company qualified for the credit, employment increased by over one hundred percent.

**2. A description of any variable that could affect the economic impact estimates.**

The variables that could affect the economic impact estimates are the number of companies that qualify for the ENJTC and the increase in employment attributed to the ENJTC. Since the inception of the ENJTC, only one company has received the ENJTC and employment increased by one hundred percent. Therefore, extending the credit could have a positive economic impact, but with a limited sample currently receiving the credit, the total impact on the County's economy is uncertain with any specificity.

**3. The Bill's positive or negative effect, if any on employment, spending, savings, investment, incomes, and property values in the County.**

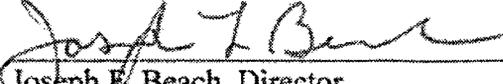
Given the very limited sample of companies that currently received the ENJTC, it is uncertain whether the extension of the credit will have a significant impact on employment, spending, savings, investment, and property values in the County. However, the credit does provide an employment and retention incentive to a company as well as other prospective employers. But without specific data on the number of companies that would receive the credit, such an impact is uncertain with any specificity.

**Economic Impact Statement**  
**Bill 14-16, Taxation – New Jobs Tax Credit and Enhanced New Jobs Tax Credit -**  
**Amendment**

4. If a Bill is likely to have no economic impact, why is that the case?

See paragraph #3.

5. The following contributed to or concurred with this analysis: David Platt and Rob Hagedoorn, Department of Finance.

  
\_\_\_\_\_  
Joseph F. Beach, Director  
Department of Finance

4-18-16  
Date

TESTIMONY ON BEHALF OF COUNTY EXECUTIVE ISIAH LEGGETT ON  
EXPEDITED BILL 14-16, NEW JOBS TAX CREDIT AND ENHANCED NEW JOBS  
TAX CREDIT - AMOUNT OF TAX CREDIT - TERM OF CREDIT

May 10, 2016

Good afternoon, my name is Mike Coveyou, Chief of the Division of Treasury in the County Department of Finance, and I am here on behalf of County Executive Isiah Leggett to testify in support of Expedited Bill 14-16, New Jobs Tax Credit and Enhanced New Jobs Tax Credit.

The County Executive transmitted this legislation to align the duration of the local enhanced new jobs tax credit with state law which is 24 years instead of 12 years. The Executive believes that extending this credit will provide another tool for the County in retaining and attracting businesses as well as incentivizing existing businesses to expand within the County.

I urge the Council to support this expedited legislation. Thank you for permitting me the time to address the Council on this important matter.