

Legislative Report

A round-up of economic, employment and business legislation from Maryland's 2019 Legislative Session

Governor Larry Hogan entered the first legislative session of his second term with another aggressive and wide-ranging legislative agenda. In what he called the "Opportunity Session," Governor Hogan introduced 31 bills addressing issues such as job creation, education, tax relief, crime reduction, health care access, and environmental protection.

Lawmakers spent the bulk of the session focused on increasing the minimum wage and on passing and funding the first stage of the Kirwan Commission's recommendations. Other topics such as clean energy and the environment, the future of the Preakness Stakes at Pimlico, and crime control and prevention in Baltimore were extensively debated in both House and Senate floor sessions.

Of the 2,481 bills introduced this session, 864 were passed, most of which are expected to be signed into law by Governor Hogan.

Administration Initiatives

Senate Bill 89/House Bill 46 – Small Business Relief Tax Credit – Expansion

Expands the Small Business Relief Tax Credit by also allowing a credit to small businesses that provide qualified paid parental leave benefits to qualified employees. Employers with fewer than 15 employees that provide either paid sick and safe leave or paid parental leave are eligible for a credit equal to the lesser of \$500 or the total amount of leave benefits offered per employee. Employers that offer both paid sick and safe leave and paid parental leave are eligible for a credit equal to the lesser of \$1,000 or the total amount of leave benefits offered per employee. The bill also increases the statutory cap on the amount of credits that can be authorized from \$5 million to \$10 million. **The bill failed.**

Senate Bill 167/House Bill 152/House Bill 440 – Pathways in Technology Early College High (P-TECH) Expansion Act of 2019

Allows for the award of up to three new Pathways in Technology Early College High (P-TECH) planning grants in fiscal year 2020 prior to the 2022-2023 school year. Allows planning grants recipients in fiscal year 2020 to establish new P-TECH schools prior to the 2023-2024 school year. Effective July 1, 2019.

Senate Bill 173/House Bill 157/House Bill 1124 – State Government – Regulations Impacting Small Businesses

Requires State agencies to establish an electronic registry, notification system, and compliance guides for proposed regulations that are expected to have a significant small business impact. Also requires the Department of Budget & Management to provide training at least once every two years to State employees responsible for promulgating regulations. Repeals certain requirements for proposed regulations with significant small business impacts as well as the Advisory Council on the Impact of Regulations on Small Businesses. Effective July 1, 2019.

Senate Bill 174/House Bill 150 – More Opportunities for Marylanders Act of 2019

Expands the More Jobs for Marylanders Program to allow businesses that locate or expand in Opportunity Zones to qualify for Tier 1 benefits, even in industries that are not manufacturing. **This bill was incorporated into Senate Bill 581.**

Senate Bill 175/House Bill 235 – Economic Development – Maryland Technology Infrastructure Fund

Establishes the Maryland Technology Infrastructure Program (MTIF) in the Maryland Technology Development Corporation (TEDCO). Also establishes the MTIF Authority and Fund. TEDCO must award capital and operating financial assistance from MTIF to public or private entities in the State for specified purposes. **The bill failed.**

Departmental Initiatives

Senate Bill 11 – Distressed Counties – References and Definitions

Clarifies references in two Commerce programs, the Maryland Economic Development Assistance Authority and Fund (MEDAAF) as well as the Maryland Industrial Development Financing Authority (MIDFA), by updating from "Qualified Distressed County" (QDC) to "Tier 1 County". These references have been changed to the new terminology and new definition which uses median household income instead of per capita income. This bill also changes the definition of "distressed county" for the purposes of the Senior Citizen Activity Center Operating fund within the Department of Aging to include Baltimore City in addition to any counties that qualify based on the current definition. Effective July 1, 2019.

Senate Bill 12 – Capital Projects – Inclusion of Public Art

Expands the Maryland Public Art Initiative by making it apply to capital projects that are funded at least 50 percent with State funds and the rest with private funds. The program does not apply to capital projects funded as a legislative bond initiative in the State capital budget. Effective July 1, 2019.

House Bill 173 – Economic Development – Job Creation Tax Credit – Sunset Extension

Extends the sunset on the Job Creation Tax Credit Program for two years to January 1, 2022. Effective July 1, 2019.

House Bill 175 – Maryland Research and Development Tax Credit – Sunset Extension

Extends the sunset on the Research and Development Tax Credit Program for one year to June 30, 2022. Effective July 1, 2019 and applies to tax years 2020 and 2021.

Fiscal Year 2020 Budget

The FY 2020 Commerce Operating Budget, resulting from legislative actions, is \$144.4 million.

Funding levels for selected Economic & Tourism Development Programs:

- Continued funding of the Maryland Economic Development Assistance Authority and Fund with \$27 million.
- \$7 million in funding for the continuation and Opportunity Zones expansion of the More Jobs for Marylanders tax credit program.
- Level funding of the Biotechnology Investment Incentive Tax Credit Program at \$12 million.
- \$2 million in total for the Maryland Marketing Partnership to continue the State's "Open for Business" campaign.
- \$13.6 million in total funding for Tourism Development to continue the highly successful travel and tourism marketing program statewide.
- \$24.4 million in total for the Maryland State Arts Council (MSAC), a new all-time high level of funding for MSAC to provide grants, technical assistance, and other services to arts and cultural organizations statewide.

Opportunity Zone Legislation

The 2017 federal Tax Cuts and Jobs Act created the Opportunity Zone program to be administered by the U.S. Treasury. Nationwide there has been a large amount of interest in building upon and enhancing this program at the state level, and in Maryland the reaction was no different. Due to the fact that federal regulations have not yet been finalized, it has been difficult for legislators to determine how to best position their state to attract investment capital from around the country. This session there were seven bills introduced with a direct connection to Opportunity Zones, and their focus ranged from job creation and the expansion of existing economic development programs to the creation of new property and income tax incentive programs. Below is a list of the bills that were introduced, of which Senate Bill 581 became the vehicle to incorporate portions of almost all of the proposed enhancements.

Senate Bill 581 – Economic and Community Development Tax Credits – Opportunity Zone Enhancement Program

Establishes the Opportunity Zone Enhancement Program to be administered by Commerce. This program offers two levels of enhanced incentives within certain existing Commerce tax incentive programs for qualified Opportunity Zone projects that choose to disclose information about Opportunity Zone investments to Commerce and enact a community benefits agreement. Expands the existing

More Jobs for Marylanders tax credit program by allowing businesses that locate or expand in Opportunity Zones to be eligible for the tax and fee benefits provided by More Jobs for Marylanders program even if the businesses are not in the manufacturing industry. Allows Opportunity Zones within Allegany, Garrett, Somerset and Wicomico Counties to qualify as Priority Funding Areas (PFA) in order to be eligible for specific programs within Commerce and the Department of Housing and Community Development (DHCD) that have PFA requirements. Tasks DHCD with facilitating the creation of Qualified Opportunity Funds in rural areas. Creates a tax credit to subsidize construction of eligible properties for moderate income individuals within Opportunity Zones. Lastly, enables jurisdictions to offer a property tax credit for vacant properties in Opportunity Zones that are returned to productive use, and authorizes an additional credit under the Heritage Structure Rehabilitation tax credit program for properties within Opportunity Zones. Various sections of the bill have different effective dates.

Senate Bill 656/House Bill 1162 – Heritage Structure Rehabilitation Tax Credit – Alterations – Opportunity Zones, Targeted Projects, and Transferability

Renames the Heritage Structure Rehabilitation Tax Credit Program as the Historic Revitalization Tax Credit Program and extends the sunset through fiscal year 2024. Requires the Governor to make an appropriation for the program through fiscal year 2024 and alters program eligibility and procedures.

This bill was incorporated into Senate Bill 581.

Senate Bill 663 – Commerce, Housing, and Community Development – Opportunity Zones

Extends the geographic eligibility for several programs within Commerce and DHCD available for Priority Funding Areas (PFAs) and/or Sustainable Communities to include Opportunity Zones. **This bill was incorporated into Senate Bill 581.**

Senate Bill 756 – Community Development – Rural Maryland Opportunity Zone Fund

Establishes a Rural Maryland Opportunity Zone Fund to be administered by DHCD to provide financial incentives to governmental units, community development organizations, or private entities for projects in Opportunity Zones in Western Maryland and on the Eastern Shore. **This bill was incorporated into Senate Bill 581.**

Senate Bill 795/House Bill 1163 – Income and Property Taxes – Qualified Maryland Opportunity Zone Investments

Creates a subtraction modification against the State income tax for certain capital gains that qualify for federal income tax benefits under the federal Opportunity Zone program. Creates a tax credit against the local property tax for qualified investments made within an Opportunity Zone. The State must reimburse local governments for half of the local revenue forgone through the property tax credit. **This bill was incorporated into Senate Bill 581.**

House Bill 918 – Income Tax – Credit for Opportunity Zone Employers – Formerly Incarcerated Individuals

Creates a tax credit against the State income tax for business entities within a federal Opportunity Zone that employ a

formerly incarcerated individual to work full time. The amount of the credit is \$1,000 with a maximum per business of \$5,000. **The bill failed.**

Industry-Specific Legislation

Senate Bill 704/ House Bill 1080 – Alcoholic Beverages – Beer Franchise Agreements – Notice of Nonrenewal or Termination

For a brewery that produces 20,000 or fewer barrels of beer a year, this bill reduces the number of days that a brewery must wait after notifying a distributor of its intent to terminate or refuse to renew a beer franchise agreement from 180 days to 45 days. Breweries of this size may also terminate or refuse to continue a franchise agreement without good cause and are no longer required to give the franchisee the opportunity to correct a deficiency. Effective January 1, 2020.

Senate Bill 801/ House Bill 1010 – Brewery Modernization Act of 2019

Updates certain aspects of the regulation of Class 5, Class 6, Class 7, and Class 8 breweries in the State including how on-site consumption permits are issued, the amount of beer that can be sold for on-premises consumption, and the hours during which a brewery may sell beer for on-premises consumption, among others. Effective July 1, 2019.

Tourism and Culture Legislation

House Bill 1404 – Economic Development – Baltimore Symphony Orchestra – Funding and Workgroup

Requires the Governor to appropriate \$1.6 million to the Baltimore Symphony Orchestra (BSO) in both Fiscal Years 2020 and 2021. Establishes the Workgroup on the Baltimore Symphony Orchestra to be staffed by Commerce to examine structural efficiencies of the BSO and to make recommendations regarding cost containment and audience development in a report submitted by October 1, 2019. Effective July 1, 2019.

Business Climate and Economic Development Legislation

Senate Bill 280/House Bill 166 – Labor and Employment – Payment of Wages – Minimum Wage (Fight for Fifteen)

Phases in an increase in the State minimum wage to \$15 per hour by January 1, 2025, with a longer phase-in for employers with 14 or fewer employees. Requires the Governor's budget for fiscal years 2021 through 2026 to include rate increases for community service providers through the Developmental Disabilities Administration. Effective June 1, 2019.

Senate Bill 340/House Bill 543 – Maryland Technology Development Corporation - Investments and Operations

Alters and establishes eligibility criteria for investments made by the Maryland Technology Development Corporation (TEDCO) to require that a business have and maintain a presence in the State. Requires TEDCO to establish an investment committee and authorizes the TEDCO board to appoint an advisory committee. Requires that the Maryland Venture Fund Authority meet at least quarterly to review TEDCO's investment policy and decisions for the InvestMaryland program. Effective June 1, 2019.

Senate Bill 516 – Clean Energy Jobs

Increases the State's Renewable Energy Portfolio Standard (RPS) from 25% by 2020 to 50% by 2030. Transfers up to \$15 million from the Strategic Energy Investment fund to specified purposes including \$7 million for the Small, Minority, and Women-Owned Businesses Account within Commerce to provide access to capital to small, minority, women, and veteran-owned businesses in the clean energy industry. Allows biomass and trash incineration as allowable forms of renewable energy eligible for the same subsidies as wind and solar energy. Alters an existing study being conducted by the Power Plant Research Program to include a supplemental study on a 100% RPS goal among other topics. Effective October 1, 2019.

Senate Bill 574 – Department of Commerce – Small Business Innovation Research and Technology Transfer – Study

Requires Commerce to explore ways to foster job creation, economic development, and technology transfer in the State by capitalizing on the federal presence in Maryland, as well as ways to encourage small businesses to apply for federal SBIR and STTR grants. Commerce must also study SBIR/STTR matching grant programs in other states and make recommendations for financing options for grant awardees in Maryland. Commerce's findings and recommendations are due December 31, 2019. Effective July 1, 2019.

Key Bills that Failed

There has consistently been 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 2020 legislative session.

Senate Bill 3/ House Bill 117 – Maryland Smart Growth Investment Fund – Supplementary Appropriation

As amended by the Senate, requires Commerce to issue a request for proposals to select a management company to establish the Maryland Smart Growth Investment Fund (SGIF). Authorizes the Board of Public Works (BPW) to issue up to \$7 million in general obligation bonds to provide funds for the SGIF.

Senate Bill 244 – Income Tax Credit – Individuals Working in STEM Fields – Student Loan Payments

Creates a tax credit against the State income tax for individuals who have student loan debt incurred in the process of attending and graduating from an institution of higher education and are now employed full-time in specified Science, Technology, Engineering, or Mathematics (STEM) fields in the State. Commerce and the Maryland Higher Education Commission (MHEC) must jointly review the tax credit applications and may not award more than \$1 million per year.

Senate Bill 360 – Income Tax – Theatrical Production Tax Credit

Creates a tax credit against the State income tax for 25% of qualified theatrical production costs incurred in the State. Commerce is required to administer the credit which is capped at \$10 million each fiscal year.

Senate Bill 507/ House Bill 886 – Income Tax – Angel Investor Tax Credit Program

Establishes the Angel Investor Tax Credit Program to be administered by Commerce. Investors that make qualified investments in Maryland innovation businesses may be eligible for an income tax credit equal to 50% of the qualified investment if the business is located in Baltimore City or Anne Arundel, Baltimore, Howard, Montgomery, or Prince George's Counties, or 66% of the qualified investment if the business is located elsewhere. The credit is capped at \$50,000 per individual and \$100,000 per married couple that files a joint return or pass-through entity.

Senate Bill 508/ House Bill 480 – Alcoholic Beverages – Maryland Brewery Promotion Program – Establishment

Establishes the Maryland Brewery Promotion Program and Fund within Commerce to provide grants to eligible applicants designed to assist Maryland breweries, educate the public about brewing in Maryland, and promote Maryland beer. The fund receives revenue collected from the existing 9 cents per gallon alcoholic beverages tax on beer produced at Maryland breweries.

Senate Bill 628/House Bill 1387 – Maryland Tourism Development Board – Grants

As originally introduced, this bill would have expanded existing grants that the Maryland Tourism Development Board distributes to Destination Marketing Organizations (DMOs) to also include nongovernmental tourism organizations. As amended by the Senate the bill establishes a Task Force on the Tourism Industry in Maryland to review the need for additional funding, training, and other resources necessary to increase diversity and inclusion in the tourism industry in the State.

Senate Bill 726 – Income Tax Credit – Purchase of Cybersecurity Technology or Service

Expands eligibility for the Buy Maryland Cyber Tax Credit Program by eliminating the requirement that a qualified buyer must have fewer than 50 employees in the State.

Senate Bill 850 – Sales and Use Tax – Exemption – Qualified Computer Technology

Provides a sales and use tax exemption for the sale of qualified computer technology for use at a qualified data center if the data center creates at least five jobs in a Tier 1 County or at least ten jobs in a Tier 2 County, and pays at least a rate of 150% of the salary classification for that job as set by the Maryland Department of Labor, Licensing, and Regulation. For a project to qualify it must also make at least \$2 million in improvements if located in a Tier 1 County or at least \$5 million in improvements if located in a Tier 2 County.

House Bill 1391 – Maryland Arts and Culture Capital Grant Program

Establishes the Maryland Arts and Culture Capital Grant Program to be administered by the Maryland State Arts Council (MSAC). For fiscal years 2021 through 2026 the Governor must appropriate \$12 million annually to the program. The council must award the total amount each year, split evenly between two types of eligible recipients, subject to specified requirements.

Wireless Permitting Legislation

There were several bills introduced involving the deployment, installation, and regulation of small wireless facilities. None of these bills passed, and they were all referred to be studied during the interim.

Transportation Public-Private Partnership Legislation

Public-Private Partnerships (P3s) for the purposes of transportation projects were also a significant topic of discussion. These bills would have prevented the Maryland Department of Transportation (MDOT) from moving forward with a presolicitation report for a P3 until other steps were completed that included in depth environmental and financial reviews. The result would have been to delay Interstate 495 and Interstate 270 P3 projects.

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

