

Legislative Report

A round-up of economic, employment and business legislation from Maryland's 2021 Legislative Session

The Maryland General Assembly entered the 2021 Session in a state of uncertainty as the COVID-19 pandemic continued to surge. There were new protocols for social distancing in order to carry on the business of a legislative session while keeping members and staff safe. For the first time ever, the Maryland General Assembly held session for which public access was entirely virtual.

Governor Larry Hogan made clear from the start of the Session that he had only two goals: responding to the ongoing pandemic and supporting the recovery of the state's economy. The Administration's FY 2022 budget and signature legislative priority reflect these goals. Working with House and Senate leadership, Governor Hogan introduced the RELIEF Act, emergency legislation that was debated, passed and signed into law less than four weeks after it was introduced. The quick action on this relief and recovery measure ensured stimulus payments would quickly get to individuals and families in need. Before the end of Session, applications for the new Commerce business assistance grants created by that legislation were under review and being processed.

In addition to COVID-19 relief and economic recovery, the Maryland General Assembly was engaged with a number of other issues that dominated Committee activity and legislative debate. These included diversity, equity and inclusion recommendations, police reform and sports betting. Speaker Jones announced an agenda promoting legislation addressing economic disparity and the House GOP Leadership announced their renewed focus on legislation addressing violent crime.

The socially distanced virtual session certainly did not limit legislative activity. As in recent years, more than 2700 bills were introduced and considered. 817 passed.

Economic development legislation introduced this session included a number of measures to alter existing programs and create new ones. Several recommendations from the Senate President's Workgroup on Equity and Inclusion, the House Speaker's economic equity priorities, and the Task Force on the Economic Future of Western Maryland made their way into legislation intended to improve economic outcomes for disadvantaged regions and disadvantaged business communities..

Chapter 39 - Recovery for the Economy, Livelihoods, Industries, Entrepreneurs, and Families (RELIEF) Act

This emergency Administration bill provides income tax relief to certain taxpayers, economic impact payments to certain taxpayers, and other forms of more immediate assistance to businesses and employers. The bill also authorizes the Governor to transfer, in fiscal 2021, and spend a total of \$520M from specified sources. A portion of that funding is to assist schools in reopening to in-person classroom instruction and for summer school instruction; the balance is to provide financial assistance to individuals, businesses, and nonprofit organizations and funding for specified State agencies.

The bipartisan [RELIEF Act of 2021](#) was signed into law on February 15, 2021, and includes more than \$1 billion in tax relief and economic stimulus for struggling families and small businesses who are suffering as a result of the COVID-19 pandemic. The bill also establishes the Recovery Now Fund to provide more than \$100M in additional grants to businesses and nonprofit organizations; housing, health, unemployment insurance, energy assistance and education.

- Provides direct stimulus payments to low and moderate income families and individuals with immediate payments of \$500 for families and \$300 for individuals who filed for the Earned Income Tax Credit.
- Provides support for unemployed Marylanders by repealing all state and local income taxes on unemployment benefits for tax years 2020 and 2021, helping people get more refunds during tax filing season.
- Provides immediate sales tax credits for small businesses of up to \$3,000 per month for three months—for a total of up to \$9,000.
- Provides unemployment insurance tax relief for small businesses by codifying the executive order declaring an employer's 2021 tax rate will be calculated based on their non-pandemic experience by excluding the 2020 fiscal year, and instead by using the last three fiscal years of 2017, 2018, and 2019.
- Establishes a COVID-19 Loan forgiveness program to convert to grants.

Commerce Budget and Legislative Priorities

The FY 2022 Commerce Operating Budget, resulting from legislative actions, is \$161.1M.

Funding levels for selected Economic & Tourism Development Programs:

- \$23M in funding for Advantage Maryland (MEDAAF). \$5M of this amount is reserved for grants to employers to facilitate telework.
- \$2M in funding for the income tax credit portion of the More Jobs for Marylanders tax credit program.
- Level funding of the Biotechnology Investment Incentive Tax Credit Program at \$12M.
- \$5.4M in total funding for business assistance through the Maryland Small Business Development Authority (MSBDFA) to facilitate the development of Maryland small businesses.
- \$15.5M in total funding of the Office of Tourism Development and the Maryland Tourism Development Board to continue the highly successful statewide travel and tourism marketing program.
- \$25.8M in total funding for the Maryland State Arts Council, a new all-time high level of funding to provide grants, technical assistance, and other services to arts and cultural organizations statewide.
- Allocation of 1.5% of proceeds from Video Lottery Terminals to the Small, Minority, and Women-Owned Businesses Account (SMWOBA) to make grants to eligible fund managers to provide capital investment and loans to small, minority, and women-owned businesses in the State. Estimated proceeds are approximately \$17M.

The final FY 2022 budget included a plan to spend \$3.9 billion in federal stimulus funding provided to Maryland to fund the State's recovery from the COVID-19 pandemic. The Governor announced this funding along with Senate President Ferguson and Speaker Jones as a coordinated effort funded through a "historic" supplemental budget. Highlights of this funding include \$800M to fund State programs included in the RELIEF Act, \$600M to assist with the reopening of schools, \$500M in transportation and infrastructure improvements, \$250M to replace financial assistance for businesses that was originally budgeted from the State's Rainy Day Fund. As passed, the budget will retain over \$1.35 billion in the Rainy Day Fund as well as over \$700M in unallocated General Funds.

Commerce Departmental Legislation

Chapter 112 - Economic Development - Biotechnology Investment Incentive Tax Credit Program - Alterations and Study

Alters the Biotechnology Investment Incentive Tax Credit (BIITC) by (1) reducing the percentage value of the tax credit; (2) establishing the objective and goals of the program; (3) altering eligibility requirements by declaring founders and employees of the company to be ineligible qualified investors when a company has been in active business for more than five years; (4) establishing a sunset date of June 30, 2028. The bill also requires Commerce to report on the possibility of administering the credit through competitive awards as an alternative to first come first served.

Chapter 113 - Economic Development - Cybersecurity Investment Incentive Tax Credit Program - Expansion, Extension, and Study

Alters and renames the Cybersecurity Investment Incentive Tax Credit (CIITC) to the Innovation Investment Incentive Tax Credit by expanding the eligibility from cybersecurity companies to technology companies. On an annual basis the Maryland Economic Development Commission (MEDC) will recommend eligible technology sectors to Commerce. The bill also restricts founders and employees of the company from qualifying as eligible investors once the company has been in active business for more than five years, and requires Commerce to report on the possibility of administering the credit through competitive awards as an alternative to first come first served. Lastly, the sunset date for the program is extended two years to January 1, 2025.

Chapter 114 - Economic Development - Research and Development Tax Credit - Alterations

Alters the Research and Development (R&D) tax credit by (1) eliminating the basic credit; (2) increasing the amount of growth credits that can be awarded to \$12M in each tax year; (3) setting aside \$3.5M to be awarded to qualified small businesses; (4) placing the maximum value of the tax credit at \$250,000 per company; (5) defining net book assets for the purpose of determining small business eligibility; and (6) establishing the purpose of the program. The bill also extends the sunset on the program five years to June 30, 2025.

Chapter 115 - Economic Development - Partnership for Workforce Quality Program - Alterations

Expands the eligible use of funds under the Partnership for Workforce Quality (PWQ) Program to include training for new employees.

Chapter 116 - Small, Minority, and Women-Owned Businesses Account - Alterations

Expands the eligible uses of the Small, Minority, and Women-Owned Businesses Account to include grants in areas declared to be federal disaster areas or subject to a federal or State declaration of emergency. In those circumstances, fund managers may provide financial assistance in the form of a grant or convert a prior loan to a grant with a limit of \$50,000 per business and an aggregate limit of \$10M in a fiscal year.

Senate Bill 186 - Economic Development - Job Creation Tax Credit - Credit for Hiring Veterans

Alters the Job Creation Tax Credit (JCTC) by establishing an enhanced credit for the hiring of a qualified veteran and extending program eligibility to businesses who hire a qualified veteran but may not otherwise qualify for JCTC. The bill repeals the stand alone Hire Our Veterans Tax Credit and extends the sunset on JCTC five years to January 1, 2027.

Senate Bill 256 - Arts and Entertainment Districts - Artistic Work and Arts and Entertainment Enterprise - Definitions

Alters the definitions of "artistic work" and "arts and entertainment enterprise" for the purposes of the Arts and Entertainment District Program.

What Passed?

Changes to Existing Economic Development Programs

Senate Bill 460/House Bill 419 - Economic Development - Advanced Clean Energy and Clean Energy Innovation Investments and Initiatives

Requires the Maryland Energy Innovation Institute (MEII) and the Maryland Clean Energy Center (MCEC) to implement an accelerator program for Maryland-based technology companies engaged in clean energy innovation. MEII and MCEC must also coordinate and consult with certain State entities. The bill designates MCEC as a green bank for the State.

Senate Bill 609 - Economic Development - Maryland Industrial Development Financing Authority - Marketing Plan

Requires the Maryland Industrial Development Financing Authority (MIDFA) to work to increase the utilization of its programs and funds as well as consider incentives to encourage the use of its credit insurance services. MIDFA must develop and implement a marketing plan to increase awareness of its credit insurance services, and the plan must identify methods to increase the utilization of such services by community banks and other financial institutions that make loans to historically disadvantaged businesses as well as businesses in rural areas of the State.

Senate Bill 778/House Bill 1279 - Regional Institution Strategic Enterprise Zone Program - Alterations

Alters the Regional Institution Strategic Enterprise (RISE) Zone Program by establishing a rental assistance grant program and enhanced biotechnology investment incentive and cybersecurity investment incentive tax credits, limiting the size of a zone to 500 acres, limiting existing income tax and property tax credits to businesses that locate in a RISE Zone before January 1, 2023, expanding the purposes of the program, and terminating program tax credits and benefits effective January 1, 2028.

House Bill 278 - Economic Development - Job Creation Tax Credit - Qualified Position and Revitalization Area

Alters the definition of "qualified position" and "revitalization area" for the purposes of eligibility under the Job Creation Tax Credit Program. A qualified position filled after September 30, 2021 must pay at least the prevailing wage for an employee classification for which there is a prevailing wage rate, or for any other employee classification 150% of the State minimum wage. Additionally in order to be eligible for the program a qualified position must provide career advancement training, the right to collectively bargain, paid leave, unemployment insurance benefits, workers' compensation benefits, employer provided health insurance benefits with monthly premiums that do not exceed 8.5% of the employees net monthly earnings, and retirement benefits.

House Bill 654 - Maryland Small Business Innovation Research and Technology Transfer Incentive Program

Modifies and clarifies requirements for the Maryland Small Business Innovation Research and Technology Transfer (SBIR/STTR) Incentive Program established by Chapters 8 and 25 of

2021. Under the bill, the program must prioritize awards and investments to eligible small businesses that are engaged in research and development activities that assist in the prevention of, preparedness for, or response to a public health crisis in the State. A recipient of funding under the program must remain a "qualified business" for at least two years, or return the funds. An existing coordination and marketing requirement is broadened to specifically include minority-owned, women-owned, and rural small businesses.

Senate Bill 678/House Bill 884 - Task Force on the Economic Future of Western Maryland - Extension of Report Deadline and Task Force

Extends the duration of the Task Force on the Economic Future of Western Maryland for six months until December 31, 2021, and extends the deadline for its reporting requirement from January 1, 2021 to October 1, 2021.

New Incentives and Business Assistance Programs

Chapter 74 - Department of Housing and Community Development - Office of Statewide Broadband - Established (Digital Connectivity Act of 2021)

Establishes the Office of Statewide Broadband (OSB) within the Department of Housing and Community Development (DHCD) as the successor to the Office of Rural Broadband (ORB). The bill establishes the Digital Inclusion Fund and the Digital Connectivity Fund within DHCD to provide grants to local governments and nonprofits to increase access to high-speed Internet and to assist in the development of affordable broadband Internet infrastructure, as specified. The bill also transfers the Rural Broadband Coordination Board (RBCB) and the Rural Broadband Assistance Fund (RBAF) from Commerce to OSB.

Senate Bill 199/House Bill 114 - Transportation - Maryland Transit Administration Funding and MARC Rail Extension Study (Transit Safety and Investment Act)

Alters and extends (by seven years) provisions of the Maryland Metro/Transit Funding Act that require increased operating and capital spending for the Maryland Transit Administration (MTA). The bill also establishes minimum required funding levels for MTA's operating and capital spending. Specific to Commerce, the bill creates a Purple Line Construction Zone Grant Program to be administered by Commerce to assist qualified small businesses impacted by the construction of the Purple Line. Commerce must provide \$1M in fiscal years 2023 and 2024 for the Program.

Senate Bill 294/House Bill 582 - Cecil County - Sales and Use Tax Exemption - Federal Facilities Redevelopment Areas

Exempts the sale of construction material or warehousing equipment from the State sales and use tax if the material is purchased by a person for use in a federal facilities redevelopment area in Cecil County.

Senate Bill 323/House Bill 310 - Maryland Arts Capital Grant Program

Establishes the Maryland Arts Capital Grant Program to be administered by the Maryland State Arts Council (MSAC). The bill directs MSAC to hire at least one full time coordinator to staff the program, and mandates the Governor include

at least \$3M in the State operating or capital budget for the program in fiscal years 2024 through 2029. MSAC must award the total amount provided each year.

House Bill 73 - State and Local Government and Public Institutions of Higher Education - Teleworking

Establishes the Office of Telework Assistance and the Business Telework Assistance Grant Program in the Department of Commerce to advise businesses on telework best practices and make grants to businesses. The Governor must include \$1M annually in the State budget for the program. The bill also requires the judicial and legislative branches of State government to maintain a telework program, alters the statewide telework program that must be maintained by the Executive branch of State government, and requires public institutions of higher education to comply with the statewide telework program. Each local government must also maintain a similar telework program.

House Bill 829 - Economic Development - Small Business Financing - Loan Loss Reserve (Maryland Capital Access Program)

Establishes the Capital Access Program within the Department of Commerce. The purpose of the program is to stimulate opportunities for small businesses that may have difficulty in obtaining business financing to have access to credit by establishing a loan loss reserve program.

House Bill 940 - Gaming - Regulation of Fantasy Gaming Competitions and Implementation of Sports Wagering - Supplementary Appropriation

Establishes and implements sports wagering in the State and provides for regulation of sports wagering and fantasy gaming competitions. The bill also establishes the Small, Minority-Owned, Women-Owned Business Sports Wagering Assistance Fund (SWAF) to be administered by Commerce. SWAF is a special, nonlapsing fund that is funded with 5% of Class A sports betting licensing fees, and may receive a general fund appropriation. SWAF may be used to provide grants or loans to small, minority-owned, or women-owned businesses for sports wagering license application assistance, assistance with sports wagering operations, or targeted training to support participation in the sports wagering industry.

House Bill 987 - Comprehensive Technical Assistance Program

Establishes the Comprehensive Technical Assistance Program in the Maryland Technology Development Corporation (TEDCO). The purpose of the program is to provide comprehensive technical assistance to any business that qualifies for financial assistance under a TEDCO program. The program must (1) incorporate TEDCO's existing services; (2) include flexible and customized applied training services; (3) include the use of a network of experienced advisors to serve as mentors and loaned executives; and (4) include support with attracting and accessing private capital. TEDCO must include information related to the program in its annual report and must adopt regulations to implement the bill.

Equity and Inclusion Initiatives

Senate Bill 639 - Maryland Technology Development Corporation - Inclusion Fund - Establishment

Establishes the Inclusion Fund in the Maryland Technology Development Corporation (TEDCO) as a special nonlapsing fund. The purpose of the fund is to provide capital investment in technology-based businesses that would qualify for investment under the Builder Fund, are at least 30% owned by individuals who demonstrate economic disadvantage, and are controlled and managed for at least one year after the time of investment by an individual or individuals who demonstrate economic disadvantage.

House Bill 1210 - Corporate Diversity - Board, Executive Leadership, and Mission

Requires a business in the State to demonstrate either diversity in its board or executive leadership or support for "underrepresented communities" in its mission in order to qualify for State capital grants, tax credits, or contracts worth more than \$1M. The bill requires Commerce and the Governor's Office of Small, Minority, and Women Business Affairs (GOSBA) to maintain a report that compiles diversity data relating to corporate boards, leadership, and missions. Additionally, the bill requires a person that submits an annual report to the State Department of Assessments and Taxation (SDAT) to submit related diversity data. The bill exempts certain categories of businesses from diversity data reporting requirements to include: sole proprietors; single member LLCs; a privately held company where 75% of shareholders are family members; or an entity with an annual operating budget or annual sales less than \$5,000,000 and does not qualify for a state benefit.

House Bill 1211 - Economic Development - Maryland Technology Development Corporation - Pre-Seed Builder Fund

Establishes the Pre-Seed Builder Fund in the Maryland Technology Development Corporation (TEDCO) as the successor to the Pre-Seed Builder Fund established in TEDCO regulations. The purpose of the fund is to support the development of start-up companies run by entrepreneurs from socially or economically disadvantaged backgrounds that hinder access to traditional forms of capital and executive networks at the pre-seed stage. TEDCO must manage and supervise the fund. The Governor must include an appropriation to the fund of \$5.0 million in fiscal 2023, \$6.2 million in fiscal 2024, and \$7.5 million annually beginning in fiscal 2025.

What Failed?

Senate Bill 246/House Bill 360 - Income Tax - Angel Investor Tax Credit Program

Creates a nonrefundable tax credit against the State income tax for investors who make qualified investments in certain Maryland innovation businesses. The amount of credits that Commerce can award each year cannot exceed the amount of money appropriated to a reserve fund established by the bill.

Senate Bill 534/House Bill 474 - Income Tax Credit – Wineries and Vineyards – Sunset Extension

Extends the termination date of the wineries and vineyards income tax credit to June 30, 2026.

Senate Bill 722/House Bill 62 - Department of Small Business, Entrepreneurship, and Innovation - Established

Establishes the Department of Small Business, Entrepreneurship, and Innovation as a principal department of the Executive Branch. The Department would be composed of the Governor's Office of Small Minority and Women's Business Affairs, as well as certain programs and staff transferred from the Departments of Commerce and Labor. The newly created Department would also be responsible for establishing a small business issue-studying commission, meeting new reporting requirements, and evaluating agency regulations for their effects on small businesses.

Senate Bill 803/House Bill 1144 - Economic Development – Western Maryland Economic Future Investment Board and Fund – Establishment

Establishes the Western Maryland Economic Future Investment program, board, and fund to be administered by the Tri-County Council for Western Maryland. The purpose of the fund is to provide grants for capital infrastructure projects and business development projects that improve economic conditions in the region. From fiscal 2023 through 2027, the Governor must annually appropriate at least \$7.5M in the operating or capital budget to the fund, although the bill specifies the intent of the General Assembly that the annual appropriation be \$15M.

Senate Bill 902 - Economic Development - Cyber Workforce Program and Fund - Established

Establishes the Cyber Workforce Program in Commerce's Partnership for Workforce Quality (PWQ) Program. The purposes of the program are to support cyber careers, provide educational and training scholarships in cyber-related fields, and provide funding for specified cyber-related activities, including cyber-related workforce development and apprenticeship programs. The bill also establishes the Cyber Workforce Fund as a special, nonlapsing fund within Commerce to support the activities of the new program.

House Bill 805 - Economic Development - Enterprise Zone Program - Alterations

Alters the Enterprise Zone Program by prohibiting the Secretary of Commerce from designating a new enterprise zone or granting an expansion of an existing zone in a calendar year if the aggregate amount of property tax credits claimed under the Enterprise Zone program exceeded \$50M in the prior fiscal year or may be reasonably expected to exceed \$50M in the current fiscal year. Additionally, the associated income tax credit under the program applies only to individuals hired by a business entity prior to July 1, 2021. The bill also allows more flexibility in the location of new enterprise zones; generally limits the size of enterprise zone expansions; requires local governments to report to Commerce and the State Department of Assessments and Taxation (SDAT) each year; requires Commerce and SDAT to develop formal metrics and a framework for analyzing each enterprise zone; relieves the Comptroller from related duties and assigns those duties to SDAT; and requires Commerce to adopt related regulations. Referred to Interim Study.

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

