

SENATE BILL 191

C8, Q3

2lr0046

(PRE-FILED)

By: **Chair, Finance Committee (By Request – Departmental – Commerce)**

Requested: October 14, 2021

Introduced and read first time: January 12, 2022

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: January 25, 2022

CHAPTER _____

1 AN ACT concerning

2 **Maryland Department of Commerce – Transparency and Efficiency in**
3 **Reporting Act**

4 FOR the purpose of altering the definition of “economic development program” for purposes
5 of certain data collection, tracking, and reporting requirements of the Maryland Jobs
6 Development Act to include certain tax credit programs; altering certain information
7 that the Department of Commerce is required to report; altering certain information
8 that the Department is required to make available on the Department’s website
9 relating to certain economic development programs; altering certain reporting
10 requirements relating to certain economic development programs and income tax
11 credits administered by the Department; and generally relating to the Maryland
12 Jobs Development Act and economic development programs administered by the
13 Department.

14 BY repealing and reenacting, with amendments,
15 Article – Economic Development
16 Section 2.5–109, 3–404(e), 5–419, 5–709, 5–1307, 5–1409, 5–1501(e), 6–307(a), and
17 6–809
18 Annotated Code of Maryland
19 (2018 Replacement Volume and 2021 Supplement)

20 BY repealing and reenacting, without amendments,
21 Article – Economic Development
22 Section 3–402, 5–406(a), 5–1501(a), 5–1602(a), and 6–802

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Annotated Code of Maryland
(2018 Replacement Volume and 2021 Supplement)

BY repealing

Article – Economic Development
Section 5–1501(j) and 5–1606
Annotated Code of Maryland
(2018 Replacement Volume and 2021 Supplement)

BY adding to

Article – Economic Development
Section 5–1501(j) and 5–1606
Annotated Code of Maryland
(2018 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, without amendments,

Article – Tax – General
Section 10–721(b)(1), 10–733(b)(1), and 10–733.1(b)(1)
Annotated Code of Maryland
(2016 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,

Article – Tax – General
Section 10–721(g), 10–725(h), 10–730(e), 10–733(h), and 10–733.1(f)
Annotated Code of Maryland
(2016 Replacement Volume and 2021 Supplement)

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

Article – Economic Development

2.5–109.

(a) In this section, “economic development program” means:

(1) the Economic Development Opportunities Program Account established under § 7–314 of the State Finance and Procurement Article;

(2) the Partnership for Workforce Quality Program established under Title 3, Subtitle 4 of this article;

(3) each of the economic development and financial assistance programs established under Title 5 of this article; and

(4) each of the tax credit programs administered by the Department, including:

- (i) the Film Production Activity Tax Credit;
- (ii) the Job Creation Tax Credit;
- (iii) the One Maryland Economic Development Tax Credit;
- (iv) the Biotechnology Investment Incentive Tax Credit;
- (v) the Research and Development Tax Credit;
- (vi) the Security Clearance Administrative Expenses and Construction and Equipment Costs Tax Credit;
- (vii) the Innovation Investment Incentive Tax Credit;
- (viii) the More Jobs for Marylanders Tax Credit;
- (ix) the Purchase of Cybersecurity Technology or Service Tax Credit;
- (x) the Opportunity Zone Enhancement Tax Credit; [and]
- (xi) the Small Business Relief Tax Credit; AND

(XII) ANY OTHER TAX CREDIT PROGRAM THAT IS ADMINISTERED BY THE DEPARTMENT UNDER:

1. TITLE 6 OF THIS ARTICLE; OR

2. TITLE 10, SUBTITLE 7 OF THE TAX – GENERAL ARTICLE.

(b) The Department shall compile data in accordance with this section on the economic development programs administered by the Department.

(c) On or before December 31, 2013, and each year thereafter, the Department shall submit a report on the economic development programs that were administered by the Department during the previous fiscal year to the Governor and, in accordance with § 2–1257 of the State Government Article, the General Assembly.

(d) (1) The report required under this section shall include the following data, if applicable, on the economic development programs administered by the Department:

- (i) the number of jobs created;
- (ii) the number of jobs retained;

(iii) the estimated amount of State revenue generated;

(iv) the status of any special fund;

(v) for minority business enterprises, as defined in § 14–301 of the State Finance and Procurement Article:

1. the number of enterprises that received assistance from each economic development program; and

2. the percentage of assistance distributed to each minority business enterprise from each economic development program compared to the total assistance distributed from each economic development program; [and]

(VI) A STATEMENT INDICATING WHETHER, DURING THE CURRENT REPORTING YEAR, THE DEPARTMENT REDUCED, REVOKED, OR RECAPTURED A TAX CREDIT OR ANY AMOUNT OF FINANCIAL ASSISTANCE FROM A RECIPIENT AND, IF APPLICABLE:

1. THE TOTAL AMOUNT RECOVERED AS A RESULT OF THE REDUCTION, REVOCATION, OR RECAPTURE, AND ANY PENALTY ASSESSED; AND

2. A JUSTIFICATION FOR THE REDUCTION, REVOCATION, OR RECAPTURE; AND

[(vi)] (VII) any additional information required by the Department through regulations.

(2) The report required under this section shall include data in the aggregate and disaggregated by:

(i) each economic development program; and

(ii) each recipient of assistance from an economic development program.

(3) The report required under this section shall include any additional information required under the law authorizing the economic development program.

(e) [On or before December 31, 2020, in addition to the report required under subsection (c) of this section, the] **THE** Department shall establish, maintain, and update annually a publicly available database on the Department's website that:

(1) provides information that is downloadable by the public in a common machine-readable format; and

(2) includes[:

(i) the name of each business entity that is a recipient of an economic development program;

(ii) the total amount of tax credits certified, financial assistance paid, and loans forgiven or uncollectible by the Department, reported in the aggregate for each economic development program and each recipient of the tax credit or financial assistance;

(iii) 1. for any tax credit or financial assistance that is certified or paid by the Department to incentivize job creation or retention:

A. the number of jobs each recipient of the credit or assistance claimed it would create or retain in its application for the credit or assistance;

B. the number of jobs actually created or retained by each recipient; and

C. the average salary of the jobs created or retained by each recipient; and

2. for any tax credit or amount of financial assistance that is certified or awarded by the Department to incentivize activities other than job creation or retention, a description of how the credit or assistance benefits the State; and

(iv) a statement indicating whether, during the current reporting year, the Department reduced, revoked, or recaptured a tax credit or any amount of financial assistance from a recipient and, if applicable:

1. the total amount recovered as a result of the reduction, revocation, or recapture, and any penalty assessed; and

2. a justification for the reduction, revocation, or recapture]
**DATA REPORTED IN CONNECTION WITH THE ECONOMIC DEVELOPMENT PROGRAMS
ADMINISTERED BY THE DEPARTMENT AS REQUIRED UNDER THE PROVISIONS OF
THIS SECTION.**

(f) If a recipient of assistance from an economic development program is not meeting the requirements of the economic development program, the Department shall implement a process to assist the recipient in meeting the program requirements.

3–402.

There is a Partnership for Workforce Quality Program in the Department.

3–404.

(e) [(1)] In accordance with § 2.5–109 of this article, the Secretary shall submit a report on the operation and performance of the Program.

[(2)] In addition to the requirements under § 2.5–109(c) of this article, the report required under this subsection shall be submitted to:

(i) the Governor’s Workforce Development Board; and

(ii) the Maryland Economic Development Commission.]

5–406.

(a) There is a Maryland Industrial Development Financing Authority in the Department.

5–419.

[(a)] In accordance with § 2.5–109 of this article, the Authority shall submit a report on its condition and operations.

[(b)] In addition to the requirements under § 2.5–109(c) of this article, the report required under this section shall be submitted to the chair of the Joint Audit and Evaluation Committee.]

5–709.

[(a)] The Department and the Comptroller jointly shall assess each year the effectiveness of the tax credits provided to business entities in enterprise zones and focus areas in enterprise zones, including:

(1) the number and amounts of credits granted each year; and

(2) the success of the tax credits in attracting and retaining business entities in enterprise zones and focus areas.

(b) On or before December 15 of each year, the Department and the Comptroller shall submit to the Governor and, in accordance with § 2–1257 of the State Government Article, the General Assembly a report outlining the findings of the Department and the Comptroller and any other information of value in determining] **IN ACCORDANCE WITH § 2.5–109 OF THIS ARTICLE, THE DEPARTMENT SHALL SUBMIT A REPORT ON** the effectiveness of the tax credits provided under § 5–707(b) of this subtitle.

5–1307.

(a) On or before October 15 of each year, a political subdivision with a BRAC Revitalization and Incentive Zone designation shall submit a report to the Department that assesses the effectiveness of the benefits provided to the BRAC Revitalization and Incentive Zone in attracting and retaining businesses within the BRAC Revitalization and Incentive Zone.

(b) [On or before December 15 of each year] **IN ACCORDANCE WITH § 2.5–109 OF THIS ARTICLE**, the Department shall[:

(1) assess the effectiveness of the benefits provided to the BRAC Revitalization and Incentive Zones in attracting and retaining businesses within BRAC Revitalization and Incentive Zones; and

(2) submit to the Governor and, in accordance with § 2–1257 of the State Government Article, the General Assembly a report outlining the findings of the Department and any other information of value in determining] **SUBMIT A REPORT ON** the effectiveness of the benefits under this subtitle.

5–1409.

[(a) The Department and the Comptroller jointly shall assess each year the effectiveness of the tax incentives provided to business entities in RISE zones, including:

(1) the number and amounts of tax incentives granted each year; and

(2) the success of the tax incentives in attracting and retaining business entities in RISE zones.

(b) On or before December 15 of each year, the Department and the Comptroller shall submit to the Governor and, in accordance with § 2–1257 of the State Government Article, the Senate Budget and Taxation Committee and the House Committee on Ways and Means a report outlining the findings of the Department and the Comptroller and any other information of value in determining] **IN ACCORDANCE WITH § 2.5–109 OF THIS ARTICLE, THE DEPARTMENT SHALL SUBMIT A REPORT ON** the effectiveness of the tax incentives authorized under this subtitle.

[(c) On or before December 15 each year, the Department shall submit to the Governor and, in accordance with § 2–1257 of the State Government Article, the Senate Budget and Taxation Committee and the House Committee on Ways and Means a report detailing with respect to each RISE zone in which a rental assistance program has been established:

(1) the entity administering the rental assistance program;

(2) the amount of funds received during the previous fiscal year;

(3) the cumulative amount of funds received; and

(4) the amount of funds remaining unspent at the end of the previous fiscal year.]

5–1501.

(a) There is a Small, Minority, and Women–Owned Businesses Account under the authority of the Department.

(e) Fund managers receiving grants under this section shall:

(1) keep proper records of funds and accounts;

(2) provide an annual report to the [Governor and, in accordance with § 2–1257 of the State Government Article, the General Assembly] **DEPARTMENT** on investment capital and loans made pursuant to subsection (c) of this section; and

(3) be subject to audit by the Office of Legislative Audits of the Department of Legislative Services.

[(j) (1) On or before October 1 each year, the Department shall submit a report on the status of money received from the Strategic Energy Investment Fund under subsection (d) of this section to the Senate Finance Committee and the House Economic Matters Committee, in accordance with § 2–1257 of the State Government Article.

(2) With respect to the preceding fiscal year and each relevant prior fiscal year, the report shall include:

(i) the amounts received from the Fund;

(ii) the amounts placed as grants with eligible fund managers; and

(iii) with respect to each eligible fund manager:

1. the identity of the manager;

2. the money provided to the manager;

3. the investments made by the manager;

4. the amounts retained by the manager as expenses and management fees;

5. the small, minority, women–owned, and veteran–owned businesses receiving the investments; and

6. the status of the investments listed under item 5 of this item, along with any return made on each investment.]

(J) IN ACCORDANCE WITH § 2.5–109 OF THIS ARTICLE, THE DEPARTMENT SHALL SUBMIT A REPORT ON AMOUNTS RECEIVED BY AND EXPENDED BY THE STRATEGIC ENERGY INVESTMENT FUND.

5–1602.

(a) There is a Make Office Vacancies Extinct Program in the Department.

[5–1606.

(a) At least once every 3 years, the Secretary shall review and evaluate the Program, including the number of participating counties with comparable support programs and the number and size of eligible businesses that receive support from the Program.

(b) Based on the review and evaluation, the Secretary may submit recommendations to the Governor and, subject to § 2–1257 of the State Government Article, the General Assembly on the continued effectiveness of the Program and the level of matching funding that should be provided to participating counties under the Program.]

5–1606.

IN ACCORDANCE WITH § 2.5–109 OF THIS ARTICLE, THE DEPARTMENT SHALL SUBMIT A REPORT ON THE EFFECTIVENESS OF THE PROGRAM.

6–307.

(a) In accordance with § 2.5–109 of this article, the Department shall submit a report on[:

(1) each business entity certified as eligible for job creation tax credits in the preceding taxable year;

(2) whether the credits for which the business entity was certified resulted from the entity's establishment, expansion, or relocation;

(3) whether the business entity had a presence in the State before claiming the credit;

(4) the total number of employees of the business entity; and

(5) the total number of years that the business entity has been in business]

THE JOB CREATION TAX CREDITS AUTHORIZED UNDER THIS SUBTITLE.

1 6–802.

2 There is a More Jobs for Marylanders Program in the Department.

3 6–809.

4 [On or before December 1 each year, the Department shall report to the General
5 Assembly, in accordance with § 2–1257 of the State Government Article,] **IN ACCORDANCE**
6 **WITH § 2.5–109 OF THIS ARTICLE, THE DEPARTMENT SHALL SUBMIT A REPORT** on
7 the qualified business entities receiving final certification in the preceding fiscal year.

8 **Article – Tax – General**

9 10–721.

10 (b) (1) The purpose of the Research and Development Tax Credit Program is
11 to foster increased research activities and expenditures in Maryland.

12 (g) [(1)] In accordance with § 2.5–109 of the Economic Development Article, the
13 Department shall report on the credits approved under this section.

14 [(2) The report required under paragraph (1) of this subsection shall include
15 for each individual or corporation approved to receive a credit under this section in the prior
16 calendar year:

17 (i) the individual’s or corporation’s name and address; and

18 (ii) the amount of the credit approved.

19 (3) The report required under paragraph (1) of this subsection shall include
20 the name of the individual or corporation and the aggregate amount of credits approved in
21 all calendar years for each individual or corporation under this section.

22 (4) The report required under paragraph (1) of this subsection shall
23 summarize for the credits approved under this section:

24 (i) the total number of applicants for credits under this section in
25 each calendar year;

26 (ii) the number of applications for which a tax credit was approved
27 in each calendar year; and

28 (iii) the total credits authorized under this section for all calendar
29 years under this section.]

1 10-725.

2 (h) [(1)] In accordance with § 2.5-109 of the Economic Development Article, the
3 Department shall report on[:

4 (i) the initial tax credit certificates awarded under this section for
5 the calendar year, including the number of initial tax credit certificates awarded to
6 qualified investors for investments in qualified Maryland biotechnology companies that
7 were not certified by the Department in the previous calendar year; and

8 (ii) for each qualified Maryland biotechnology company that receives
9 an investment for which an initial tax credit certificate is awarded under this section for
10 the calendar year:

11 1. the number of years that the company has been in active
12 business; and

13 2. the number of years that qualified investors in the
14 company have received tax credits under this section] **THE INITIAL TAX CREDIT**
15 **CERTIFICATES AWARDED FOR THE CALENDAR YEAR AND THE QUALIFIED**
16 **MARYLAND BIOTECHNOLOGY COMPANIES THAT RECEIVED AN INVESTMENT FOR**
17 **WHICH AN INITIAL TAX CREDIT CERTIFICATE WAS AWARDED.**

18 [(2)] The report required under paragraph (1) of this subsection shall include
19 for each initial tax credit certificate awarded:

20 (i) the name of the qualified investor and the amount of credit
21 awarded or allocated to each investor;

22 (ii) the name and address of the qualified Maryland biotechnology
23 company that received the investment giving rise to the credit under this section and the
24 county where the qualified Maryland biotechnology company is located; and

25 (iii) the dates of receipt and approval by the Department of all
26 applications for initial tax credit certificates.

27 (3) The report required under paragraph (1) of this subsection shall
28 summarize for the category of qualified investors:

29 (i) the total number of applicants for initial tax credit certificates
30 under this section in each calendar year;

31 (ii) the number of applications for which initial tax credit certificates
32 were issued in each calendar year; and

(iii) the total initial tax credit certificates authorized under this section for all calendar years under this section.]

10–730.

(e) [(1)] In accordance with § 2.5–109 of the Economic Development Article, the Department shall submit a report [that includes:

(i) the number of film production entities submitting applications under subsection (c) of this section;

(ii) the number and amount of tax credit certificates issued under subsection (d) of this section;

(iii) the number of local technicians, actors, and extras hired for film production activity during the reporting period;

(iv) a list of companies doing business in the State, including hotels, that directly provided goods or services for film production activity during the reporting period;

(v) a list of companies doing business in the State that directly provided goods or services for film production activity during the reporting period that qualified during the reporting period as minority business enterprises under § 14–301(f) of the State Finance and Procurement Article;

(vi) a list of companies doing business in the State that directly provided goods or services for film production activity during the reporting period that, as determined by the Department, are considered small businesses; and

(vii) any other information that indicates] **ON FILM PRODUCTION ACTIVITY IN THE STATE AND** the economic benefits to the State resulting from film production activity during the reporting period.

[(2) On or before July 1 of each year, the Department shall report to the Governor and, subject to § 2–1257 of the State Government Article, the General Assembly on:

(i) the amount of tax credits necessary to maintain the current level of film production activity in the State; and

(ii) the amount of tax credits necessary to attract new film production activity to the State.]

10–733.

(b) (1) The Innovation Investment Incentive Tax Credit is intended to foster the growth of Maryland's technology sectors by incentivizing investment in early-stage companies with the goal of increasing the number of companies developing innovative technologies in Maryland, increasing overall investments in current and emerging technology sectors, and increasing the number of individual investors actively investing in Maryland's technology companies.

(h) [(1)] In accordance with § 2.5–109 of the Economic Development Article, the Department shall submit a report on the initial tax credit certificates awarded under this section for the calendar year.

[(2)] The report required under paragraph (1) of this subsection shall include for each initial tax credit certificate awarded:

(i) the name of the qualified investor and the amount of credit awarded or allocated to each qualified investor;

(ii) the name and address of the qualified Maryland technology company that received the investment giving rise to the credit under this section and the county where the qualified Maryland technology company is located; and

(iii) the dates of receipt and approval by the Department of all applications for initial tax credit certificates.

(3) The report required under paragraph (1) of this subsection shall summarize for the categories of qualified investors:

(i) the total number of applicants for initial tax credit certificates under this section in each calendar year;

(ii) the number of applications for which initial tax credit certificates were issued in each calendar year; and

(iii) the total initial tax credit certificates authorized under this section for all calendar years under this section.]

10–733.1.

(b) (1) Subject to paragraphs (2) and (3) of this subsection, a qualified buyer may claim a credit against the State income tax in an amount equal to 50% of the cost incurred during the taxable year to purchase cybersecurity technology or a cybersecurity service from one or more qualified sellers.

(f) [(1)] In accordance with § 2.5–109 of the Economic Development Article, the Department shall submit a report on the credit certificates awarded under this section for the calendar year.

1 [(2) The report required under paragraph (1) of this subsection shall include
2 for each credit certificate awarded:

3 (i) the names of the qualified buyer and the qualified seller and the
4 amount of the credit certificate approved for each qualified buyer;

5 (ii) the name and address of the qualified buyer that received the
6 credit under this section and the county where the qualified buyer is located; and

7 (iii) the dates of receipt and approval by the Department of all
8 applications for credit certificates.

9 (3) The report required under paragraph (1) of this subsection shall
10 summarize for the categories of qualified buyers:

11 (i) the total number of applicants for credit certificates under this
12 section in each calendar year;

13 (ii) the number of applications for which credit certificates were
14 issued in each calendar year; and

15 (iii) the total amount of credit certificates authorized under this
16 section for all calendar years under this section.】

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
18 1, 2022.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.