SB 779

Department of Legislative Services
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 779 (Senator King)
Budget and Taxation

Biotechnology Investment Tax Credit - Qualified Maryland Biotechnology Company - Definition

This bill expands eligibility for the biotechnology investment tax credit by specifying that a biotechnology company that has been in active business for up to 10 years from the date the company first received an investment by an investor eligible to receive the tax credit can qualify as a biotechnology company and be eligible to receive investments for which tax credits can be awarded.

The bill takes effect June 1, 2013, and applies to initial tax credit certificates issued beginning in fiscal 2014.

Fiscal Summary

State Effect: Allowing additional biotechnology companies to qualify for tax credits is not expected to alter the fiscal impact of the credit beyond that provided under current law.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Chapter 99 of 2005 (HB 664) established the biotechnology investment tax credit. The Department of Business and Economic Development (DBED) administers the tax credit application, approval, and certification process and is required to submit a report to the Governor and the General Assembly detailing specified information about the tax credit by January 10 of each year. An investor who invests at least $25,000 in a qualified Maryland biotechnology company (QMBC) can claim a credit equal to 50% of the investment, not to exceed $250,000. DBED may not certify investments in a single biotechnology company that total more than 15% of the total appropriations to the reserve fund for that fiscal year.

Under Chapter 99, in order to qualify, a biotechnology company was required to (1) have its headquarters and base of operations in the State; (2) have fewer than 50 full-time employees; (3) have been in active business for no longer than 10 years; and (4) be certified as a biotechnology company by DBED. Chapter 518 of 2008 (HB 723) made several changes to the program, including adding a requirement that a biotechnology company could not be publicly traded on any exchange. Chapter 518 also allowed a company that has been in active business for up to 12 years to qualify if DBED determines that the company required additional time to complete the regulatory approval process. Chapter 349 of 2011 (HB 587) further expanded eligibility by specifying that, for credits in fiscal 2012 and 2013, a biotechnology company could be in active business for up to 15 years. The bill will add an additional exception to the 10-year limitation on operations by generally allowing a company to qualify for tax credits for up to 10 years after the first investment by an investor eligible to receive the tax credit. **Exhibit 1** shows the evolution of QMBC eligibility criteria related to length of time in active business since the program's inception and the additional eligibility standard proposed by the bill.

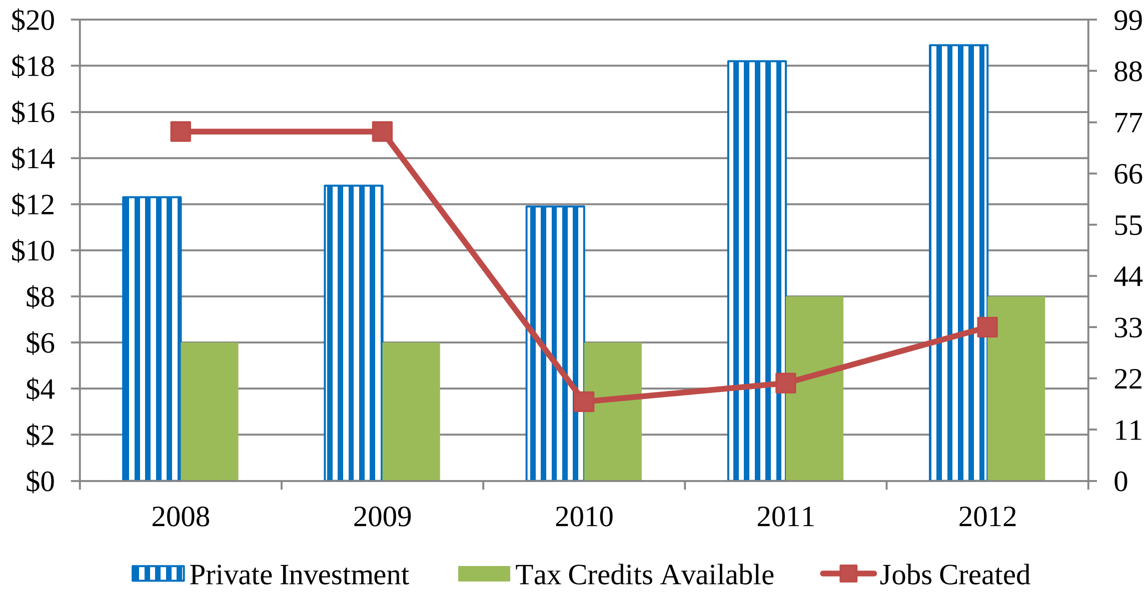
Exhibit 1
Qualified Maryland Biotechnology Company Operations Criteria

Legislation	Eligibility Standard
Chapter 99 of 2005	In business less than 10 years
Chapter 518 of 2008	In business up to 12 years if DBED determines necessary for regulatory reasons
Chapter 349 of 2011	In business up to 15 years (fiscal 2012 and 2013)
SB 779 of 2013	In business for up to 10 years from the date the company first received a qualified investment from an investor eligible for the tax credit

Background: The Governor's proposed fiscal 2014 State budget includes $10.0 million in funding for the tax credit. Budget language adopted in the fiscal 2010 budget bill restricted funds under the Maryland Biotechnology Investment Tax Credit program until DBED submitted a report on goals, objectives, and outcome measures for the credit. Prior to this, the department did not report this data through the Managing for Results (MFR) process. DBED was required to consider including in MFR reporting the number of tax credit recipients, the amount of private investment leveraged, any new jobs created, long-term company retention data, and any other measure deemed reflective of the credit's mission.

Exhibit 2 shows a selection of the MFR measures that resulted from the required report. DBED awarded $6 million in tax credits in fiscal 2008 through 2010 and $8 million in fiscal 2011 and 2012. In fiscal 2012, for the $8 million investment, 19 qualified companies created 33 jobs, for an average of $242,000 per job. On average, each company that received a qualified investment in fiscal 2012 created 1.7 jobs. However, this marks an increase in jobs created compared to fiscal 2011.

Exhibit 2
Selected Performance Measures
Biotechnology Tax Credit
Fiscal 2008-2012
($ in Millions)



Source: Governor's Budget Books, Fiscal 2010-2014

DBED advises that job creation is not a precondition for selection or approval of qualified investors or companies. Additionally, according to the DBED report, a significant private investment is not leveraged beyond the minimum that is required for the credit. The value of the credit is equal to 50% of an eligible investment made in a qualified biotechnology business during the taxable year, up to a maximum of $250,000. The minimum of private investment needed in fiscal 2012 is $16 million; the department reports private investment of $18.9 million.

State Fiscal Effect: The bill allows additional biotechnology companies to qualify for the tax credit. This provision is not expected to impact State finances as it is anticipated that DBED would continue to award the maximum amount of credits in each fiscal year. DBED may not award more credits than the amount appropriated in the State budget, plus any adjustments from prior years.

Additional Information

Prior Introductions: None.

Cross File: HB 328 is listed as a cross file but the bills are not identical.

Information Source(s): Department of Business and Economic Development, Comptroller's Office, Department of Legislative Services

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mc/jrb

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