September 13, 2022

FISCAL AND POLICY NOTE

TO: Robert J. Williams, Jr.
Council Administrator

William M. Hunt
Deputy Council Administrator

FROM: Josh Hamlin
Director of Budget and Policy Analysis

RE: Policy Analysis and Fiscal Impact Statement
CB-073-2022 Revitalization Tax Credit District Criteria

CB-073-2022 (Proposed and presented by: Councilmember Turner)

Assigned to the Government Operations and Fiscal Policy (GOFP) Committee

AN ACT CONCERNING AMENDING THE CRITERIA FOR THE ESTABLISHMENT OF A REVITALIZATION TAX CREDIT DISTRICT for the purpose of expanding the criteria for the establishment of a revitalization tax credit district to include those areas that are not included in the enumerated census tracts and satisfies the requirements of an economic development project as defined by Section 7-516(a)(3) of the Tax-Property Article of the Annotated Code of Maryland.

Fiscal Summary

Direct Impact:

Expenditures: None likely.

Revenues: Likely reduced revenues in the near term, potentially offset by increased revenue over the long term

Indirect Impact:

Likely positive.

Legislative Summary:

CB-073-2022, proposed and presented by Council Member Turner on July 5, 2022. The Bill would expand the criteria for the establishment of a revitalization tax credit district to include those areas that are not included in the enumerated census tracts and that satisfy the requirements of an economic development project as defined in §7-516(a)(3) of the Tax-Property Article of the Annotated Code of Maryland.

Current Law/Background:

State Law

Section 7-516 of the Tax-Property Article of the Annotated Code of Maryland authorizes, *under certain conditions*, the County, by resolution of the governing body, to exempt or partially exempt an *economic development project* from the county real property tax. "Economic development project is defined in §7-516(a)(3) as:

> a real estate development project that consists of newly constructed or rehabilitated commercial property if the real estate development project:
> (i) has a certificate of occupancy issued on or after October 1, 2012;
> (ii) is located on one or more parcels of land, all of which are situated in a designated focus area[1]; and
> (iii) includes at least one of the following:
> 1. a hotel that:
>   A. provides at least 100 full-time equivalent job opportunities; and
>   B. has a private capital investment of equity and debt combined of at least $20,000,000;
> 2. an office building that:
>   A. provides at least 100 full-time equivalent job opportunities; and
>   B. has a private capital investment of equity and debt combined of at least $20,000,000;
> 3. a retail facility that:
>   A. provides at least 100 full-time equivalent job opportunities; and
>   B. has a private capital investment of equity and debt combined of at least $10,000,000;
> 4. an off-street parking facility that:
>   A. contains at least 250 parking spaces; and

[1] Designated focus area is defined as:
(i) a transit-oriented development, defined as a development or project within one-half mile of a Washington Metropolitan Area Transit Authority transit station or one-half mile of a Maryland Area Regional Commuter transit station, as measured from the main entrance of the building to the nearest entrance of the transit station;
(ii) a revitalization tax credit district, as defined in § 10-235.02 of the Prince George's County Code and designated by the governing body of Prince George's County; or
(iii) an urban renewal area, as designated by the governing body of Prince George's County.

B. has a private capital investment of equity and debt combined of at least $2,500,000; or

5. a mixed-use facility that contains one or more of the facilities described in items 1 through 4 of this item, at least one of which satisfies the minimum criteria set forth in item 1, 2, 3, or 4 of this item.

The preconditions that must be met in order for the property tax exemption to be granted are referenced in lines 6 through 14 of CB-073-2022, and are:

1) an economic analysis done by the County or its designated agency that includes:
   - (a) a detailed description of the project and the development budget, including the identification of all sources of debt and equity financing;
   - (b) a multiyear cash flow pro forma of the project detailing all incoming and outgoing cash flow revenues, operating expenses, debt service, taxes, capital expenditures, and any other cash outlays;
   - (c) the projected return on investment for the owner or owners;
   - (d) a determination that the project is an economic development project that meets the requirements of this section; and
   - (e) any other relevant analysis;
2) a demonstrated public benefit that the project will provide, including:
   - (a) the number of jobs expected to be created, directly or indirectly, as a result of the project and the percentage of those jobs expected to be held by Prince George's County residents;
   - (b) the wage rates and benefit packages for the jobs expected to be created;
   - (c) other Prince George's County tax revenues, exclusive of real property taxes, that the project is expected to generate during the term of the payment in lieu of taxes agreement, including income, admissions and amusement, personal property, hotel, parking, energy, and other taxes;
   - (d) the encouragement of economic development;
   - (e) the general promotion and improvement of Prince George's County and its facilities;
   - (f) the participation of local minority business enterprises and local business enterprises in the economic development project; and
   - (g) any other relevant benefits;
3) a demonstrated financial necessity for the exemption;
4) private capital being invested in the economic development project that includes an equity investment that is:
   - (a) commensurate with the overall undertaking; and
   - (b) (i) for a hotel or an office building, an amount greater than or equal to 10% of the combined equity and debt investment; or
     (ii) for an off-street parking facility, an amount greater than or equal to $250,000.[2]

[2] For an exemption under §7-516, the owner or owners must also enter into a payment in lieu of taxes (PILOT) agreement or agreements, begin construction within 18 months after the agreement, and the project must not involve gambling activities. These are not pertinent to the creation of a Revitalization Tax Credit District and thus are not referenced or included in CB-073-2022.

County Law

Under Subdivision 5B[3] of the County Code the requirements to establish Revitalization Tax Credits (RTC) and Revitalization Tax Credit Districts (RTCD) are outlined. Currently under § 10-235.02[4] of the County Code the current process to create RTCD and the requirements to be eligible for RTC are described.

Under § 10-235.02 (a) of the County Code the County Executive may recommend the creation of a RTC or RTCD, the County Council may also establish them, by ordinance. Once a RTCD is created the potential impact in relation to community redevelopment, business revitalization, median household income, residential density, land use, economic factors, and unemployment rates within an area are considered. As described in § 10-235.02(c) all property within a RTCD will be eligible for a RTC that will be applied to eligible real property taxes based on the value of the eligible improvements that require a County building permit. Examples of eligible improvements requiring a County building permit are:

- Construction, reconstruction, or extension of nonresidential structures;
- Reconstruction or extension of existing residential structures;
- Construction or reconstruction of new single-family residential structures being built on lots where a residential structure has been razed or demolished within the prior five (5) years, or on vacant lots between adjacent lots with single-family residential structures;
- New construction on developments with less than ten (10) one-family dwellings, as set forth in the plan of subdivision[5]

Upon resolution of the County Council new construction in developments of ten (10) or more one-family dwellings, as set forth in the plan of subdivision, or new multifamily units may be eligible for an RTC. Any eligible improvements have the possibility of being limited in an ordinance establishing each RTCD. Unless otherwise stated in the ordinance establishing a RTCD any nonresidential improvements will be eligible for a tax credit over five (5) consecutive years that may not exceed an amount equal to 100% of the costs of eligible improvements. Residential improvements are eligible for a tax credit over three (3) consecutive years that may not exceed 100% of the costs of eligible improvements[6].

For the five (5) consecutive years that a nonresidential improvement is eligible for a tax credit, the tax credit shall decrease with each subsequent year:

- Year 1: 100%
- Year 2: 80%
- Year 3: 60%
- Year 4: 40%

[3] Prince George's County Code, SUBDIVISION 5B. - REVITALIZATION TAX CREDITS.
[4] Prince George's County Code, Section 10-235.02
[5] Prince George's County Code, Section 10-235.02(d)(1)(2)(3)(4)
[6] Maximum dollar amount of eligible residential improvements is set at $200,000 per dwelling unit

- Year 5: 20%

For the three (3) consecutive years that a residential improvement is eligible for a tax credit, the tax credit shall decrease with each subsequent year:

- Year 1: 100%
- Year 2: 66%
- Year 3: 33%

The Supervisor of Assessments will determine any increased assessment on property within a RTCD due to residential and nonresidential improvements. The application for the RTC will be provided by the Director of Finance, which will include a legal description of the property, proof of a properly issued use and occupancy permit that is applicable to any eligible improvement to determine if an applicant can qualify for the RTC.

§ 10-235.03[7] of the County Code details the census tracts[8], based on the 2010 Census, that qualify as being a part of a RTCD. Median Income in these census tracts does not exceed one hundred percent (100%) of the median household income for the County. § 10-235.03 also establishes the method that census tracts are chosen based on the year following the American Community Survey (ACS) Report. The Maryland National Capital Park and Planning Commission reviews the ACS census tract data and submits it to the County Executive and County Council the changes in census tracts.

Resource Personnel:

- Tomeka Bumbry, Chief of Staff/Legislative Aide, District 4

Discussion/Policy Analysis:

As discussed above, the proposed Bill would amend §10-235.03 of the County Code to extend the eligibility for the redevelopment/revitalization tax credit to include “areas that do not qualify as an enumerated census tract or part of an enumerated census tract designated in subsection (a) of this Section but do meet the following requirements:

1) The project satisfies the requirements of an economic development project as defined by Section 7-516(a)(3) of the Tax-Property Article of the Annotated Code of Maryland;
2) the owner or owners of said economic development project have demonstrated to the satisfaction of the County Executive and County Council that the County or its designated agency has conducted an economic analysis of the project in accordance with Section 7-516(b)(1)(i);
3) there is a public benefit provided in accordance with Section 7-516(b)(1)(ii);

[7] Prince George’s County Code, Section 10-235.03
[8] 2010 Census Tracts - Map

4) there is a financial necessity for an exemption in accordance with Section 7-12 516(b)(1)(iii); and
5) the private capital being invested in said economic development project includes an equity investment in accordance with Section 7-516(b)(1)(iv).

The Bill further provides that the "Revitalization Tax Credit District established pursuant to this subsection shall be created by resolution."

If enacted, CB-073-2022 would expand the universe of development projects beyond the geographic, census tract-defined boundaries of the RTCD currently established under §10-235.03, to include certain economic development. However, the locational requirements under State law, *i.e.*, part of a transit-oriented development or in a designated urban renewal area, would still apply. The number of additional projects that would be eligible is unclear, but transit-oriented development and urban regeneration are consistent with the County's development goals.

Fiscal Impact:

- *Direct Impact*

Enactment of CB-073-2022 will have an adverse direct fiscal impact equivalent to the amount of the credits awarded for newly eligible construction. It is important to note, however, that the credits are limited to the *increased assessment attributable to the improvements* and limited to five years. Thus, to the extent that the credit incentivizes improvements that would otherwise not happen, this adverse impact may be more than offset by the increase in tax revenues collected over the long term.

- *Indirect Impact*

Enactment of CB-073-2022 will likely have a favorable indirect fiscal impact on the County inasmuch as it incentivizes economic development projects that, but for the inducement of the tax credit, would not have been fully realized.

Appropriated in the Current Fiscal Year Budget

No.

Effective Date:

The proposed Bill shall be effective forty-five (45) calendar days after it becomes law.

If you require additional information, or have questions about this fiscal impact statement, please call me.