

HOUSE BILL 540

Q3
HB 313/19 – W&M

0lr1108
CF SB 645

By: **Delegates Wilkins, Charkoudian, Feldmark, W. Fisher, Healey, Ivey, Korman, Moon, Palakovich Carr, Shetty, Solomon, Valderrama, Washington, and Williams**

Introduced and read first time: January 27, 2020
Assigned to: Ways and Means

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 10, 2020

CHAPTER _____

1 AN ACT concerning

2 ~~State Income and Property Tax Credits – Purple Line Construction Zone – State~~
3 Income Tax Credit and Grant Program

4 FOR the purpose of allowing certain qualified businesses impacted by the construction of
5 the Purple Line light rail project in Montgomery County and Prince George’s County
6 a credit against the State income tax ~~and State property tax~~; requiring the
7 Department of ~~Transportation~~ Commerce, in consultation with the ~~Comptroller~~
8 Department of Transportation, to determine the eligible amount of the income tax
9 credit for each qualified business; providing that the amount of the credit may not
10 exceed a certain amount; requiring the Department to provide certain businesses
11 with certain applications of Commerce, in consultation with the Department of
12 Transportation, to develop and make available a certain application that certain
13 businesses may use for a certain purpose; prohibiting the Department of Commerce
14 from certifying certain business revenue losses in excess of a certain amount;
15 requiring the Department of Commerce to approve a prorated amount of business
16 revenue losses for each applicant under certain circumstances; making the income
17 tax credit refundable; authorizing, under certain circumstances, certain businesses
18 to apply for the income tax credit regardless of ownership or location; establishing
19 the Purple Line Construction Zone Grant Program; establishing the purpose of the
20 Grant Program; requiring the Department of Commerce to implement and
21 administer the Grant Program; requiring the Department of Commerce, in
22 consultation with the Department of Transportation, to adopt certain regulations to
23 ~~administer the income tax credit; requiring the Department to certify a business~~

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.



~~entity as a qualified business if the business entity can establish a loss of business income at a property in the area impacted by the construction of the Purple Line light rail project; requiring the Department to determine the date on which the certification as a qualified business entity will expire; requiring the Department of Commerce and the Department of Transportation to consult qualified small businesses for a certain purpose; requiring the Department of Commerce to make a certain application available as soon as practicable; establishing a maximum amount for a certain grant awarded; authorizing the Department of Commerce to award grants until a certain time; prohibiting the Department of Commerce from awarding more than one grant to the same business in a certain period of time; requiring that certain money revert to the Maryland Economic Development Assistance Fund; providing that the Department of Commerce may use a certain projection for a certain purpose; defining certain terms; providing for the application of this Act; providing for the termination of this Act; and generally relating to the Purple Line Construction Zone Grant Program and a State income and property tax credits tax credit for certain businesses impacted by the construction of the Purple Line light rail project.~~

BY adding to

Article – Tax – General

Section 10–751

Annotated Code of Maryland

(2016 Replacement Volume and 2019 Supplement)

BY adding to

Article – Economic Development

Section 17–101 to be under the new subtitle “Subtitle 17. Purple Line Construction Zone Grant Program”

Annotated Code of Maryland

(2018 Replacement Volume and 2019 Supplement)

~~BY adding to~~

~~Article – Tax – Property~~

~~Section 9–112~~

~~Annotated Code of Maryland~~

~~(2019 Replacement Volume)~~

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

Article – Tax – General

10–751.

(A) IN THIS SECTION, “QUALIFIED SMALL BUSINESS” HAS THE MEANING STATED IN ~~§ 9–112 OF THE TAX – PROPERTY ARTICLE~~ § 17–101 OF THE ECONOMIC DEVELOPMENT ARTICLE.

1 (B) (1) SUBJECT TO THE LIMITATIONS OF THIS SECTION, A QUALIFIED
2 SMALL BUSINESS MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX FOR THE
3 AMOUNT OF BUSINESS ~~INCOME~~ REVENUE THAT IS LOST DURING THE TAXABLE YEAR
4 AS A RESULT OF THE CONSTRUCTION OF THE PURPLE LINE LIGHT RAIL PROJECT IN
5 MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

6 (2) FOR ANY TAXABLE YEAR, THE CREDIT ALLOWED UNDER THIS
7 SECTION MAY NOT EXCEED \$25,000 FOR EACH QUALIFIED SMALL BUSINESS.

8 (C) FOR EACH QUALIFIED SMALL BUSINESS, THE DEPARTMENT OF
9 ~~TRANSPORTATION~~ COMMERCE, IN CONSULTATION WITH THE ~~COMPTROLLER~~
10 DEPARTMENT OF TRANSPORTATION, SHALL DETERMINE THE AMOUNT OF BUSINESS
11 ~~INCOME~~ REVENUE ELIGIBLE FOR THE CREDIT UNDER SUBSECTION (B) OF THIS
12 SECTION.

13 (D) (1) ~~EACH YEAR THE~~ THE DEPARTMENT OF ~~TRANSPORTATION~~
14 COMMERCE, IN CONSULTATION WITH THE DEPARTMENT OF TRANSPORTATION,
15 SHALL ~~PROVIDE~~ DEVELOP AND MAKE AVAILABLE AN APPLICATION IN WHICH A
16 QUALIFIED SMALL BUSINESS WITH AN APPLICATION TO MAY SUBSTANTIATE THE
17 AMOUNT OF BUSINESS ~~INCOME~~ REVENUE LOST DURING THE TAXABLE YEAR AS A
18 RESULT OF THE CONSTRUCTION OF THE PURPLE LINE LIGHT RAIL PROJECT.

19 (2) THE APPLICATION SHALL IDENTIFY THE DOCUMENTATION
20 NECESSARY TO SUBSTANTIATE THE AMOUNT OF LOST BUSINESS ~~INCOME~~ REVENUE.

21 (3) ON OR BEFORE DECEMBER 31 EACH YEAR, THE DEPARTMENT OF
22 ~~TRANSPORTATION~~ COMMERCE SHALL PROVIDE CERTIFICATION TO A QUALIFIED
23 SMALL BUSINESS OF THE AMOUNT OF BUSINESS ~~INCOME~~ REVENUE LOST DURING
24 THE TAXABLE YEAR AS A RESULT OF THE CONSTRUCTION OF THE PURPLE LINE
25 LIGHT RAIL PROJECT.

26 (4) (I) THE TOTAL AMOUNT OF BUSINESS REVENUE LOSSES
27 CERTIFIED BY THE DEPARTMENT OF COMMERCE UNDER PARAGRAPH (3) OF THIS
28 SUBSECTION MAY NOT EXCEED \$1,000,000 FOR ANY CALENDAR YEAR.

29 (II) IF THE TOTAL AMOUNT OF BUSINESS REVENUE LOSSES
30 CLAIMED BY ALL QUALIFIED SMALL BUSINESSES UNDER THIS SUBSECTION EXCEEDS
31 THE MAXIMUM SPECIFIED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE
32 DEPARTMENT OF COMMERCE SHALL APPROVE AN AMOUNT OF BUSINESS REVENUE
33 LOSSES UNDER SUBSECTION (C) OF THIS SECTION FOR EACH APPLICANT IN AN
34 AMOUNT EQUAL TO THE PRODUCT OF MULTIPLYING THE BUSINESS REVENUE
35 LOSSES CLAIMED BY THE APPLICANT TIMES A FRACTION:

1 1. THE NUMERATOR OF WHICH IS THE MAXIMUM
2 SPECIFIED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH; AND

3 2. THE DENOMINATOR OF WHICH IS THE TOTAL OF ALL
4 BUSINESS REVENUE LOSSES CLAIMED BY ALL APPLICANTS UNDER THIS
5 SUBSECTION IN THE CALENDAR YEAR.

6 (E) IF THE TAX CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE
7 YEAR EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY THE QUALIFIED BUSINESS
8 FOR THAT TAXABLE YEAR, THE QUALIFIED SMALL BUSINESS MAY CLAIM A REFUND
9 IN THE AMOUNT OF THE EXCESS.

10 (F) IF A QUALIFIED SMALL BUSINESS IS REQUIRED TO BE REGISTERED WITH
11 THE STATE AND IS REGISTERED, THE QUALIFIED SMALL BUSINESS MAY APPLY FOR
12 THE TAX CREDIT UNDER THIS SECTION REGARDLESS OF OWNERSHIP OR LOCATION.

13 (G) THE DEPARTMENT OF ~~TRANSPORTATION~~ COMMERCE, IN
14 CONSULTATION WITH THE DEPARTMENT OF TRANSPORTATION, SHALL ADOPT
15 REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION.

16 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
17 as follows:

18 ~~Article – Tax – Property~~

19 ~~9-112.~~

20 Article – Economic Development

21 SUBTITLE 17. PURPLE LINE CONSTRUCTION ZONE GRANT PROGRAM.

22 17-101.

23 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
24 INDICATED.

25 (2) “GRANT PROGRAM” MEANS THE PURPLE LINE CONSTRUCTION
26 ZONE GRANT PROGRAM.

27 (3) “IMPACTED AREA” MEANS AN AREA DESIGNATED BY THE
28 DEPARTMENT OF ~~TRANSPORTATION~~ AS BEING IMPACTED BY THE CONSTRUCTION
29 OF THE PURPLE LINE LIGHT RAIL PROJECT IN MONTGOMERY COUNTY AND PRINCE
30 GEORGE’S COUNTY.

1 ~~(3)~~ (4) “QUALIFIED SMALL BUSINESS” MEANS ~~A BUSINESS THAT IS~~
 2 ~~CERTIFIED UNDER SUBSECTION (C) OF THIS SECTION AND IS A SOLE~~
 3 ~~PROPRIETORSHIP, A PARTNERSHIP, A LIMITED PARTNERSHIP, A LIMITED LIABILITY~~
 4 ~~PARTNERSHIP, A LIMITED LIABILITY COMPANY, OR A CORPORATION THAT:~~

5 (I) EMPLOYS 20 OR FEWER EMPLOYEES;

6 (II) IS INDEPENDENTLY OWNED AND OPERATED;

7 (III) IS NOT A SUBSIDIARY OF ANOTHER BUSINESS;

8 (IV) IS NOT DOMINANT IN ITS FIELD OF OPERATION; AND

9 (V) IS IMPACTED BY THE CONSTRUCTION OF THE PURPLE LINE
 10 LIGHT RAIL PROJECT IN MONTGOMERY COUNTY AND PRINCE GEORGE’S COUNTY.

11 ~~(B) SUBJECT TO THE PROVISIONS OF THIS SECTION, THE STATE SHALL~~
 12 ~~GRANT A PROPERTY TAX CREDIT AGAINST THE STATE PROPERTY TAX IMPOSED ON~~
 13 ~~REAL PROPERTY THAT IS LOCATED IN AN IMPACTED AREA AND OWNED BY A~~
 14 ~~QUALIFIED BUSINESS.~~

15 ~~(C) (1) THE DEPARTMENT OF TRANSPORTATION SHALL CERTIFY AS A~~
 16 ~~QUALIFIED BUSINESS A BUSINESS ENTITY THAT MEETS THE REQUIREMENTS OF THIS~~
 17 ~~SECTION AND REGULATIONS ADOPTED BY THE DEPARTMENT OF TRANSPORTATION.~~

18 ~~(2) A BUSINESS ENTITY IS ELIGIBLE TO BE CERTIFIED AS A~~
 19 ~~QUALIFIED BUSINESS IF THE BUSINESS ENTITY CAN ESTABLISH A LOSS OF BUSINESS~~
 20 ~~INCOME AT A PROPERTY LOCATED IN THE IMPACTED AREA THAT IS THE DIRECT~~
 21 ~~RESULT OF CONSTRUCTION OF THE PURPLE LINE LIGHT RAIL PROJECT.~~

22 ~~(3) (I) THE DEPARTMENT OF TRANSPORTATION SHALL PROVIDE~~
 23 ~~BUSINESS ENTITIES IN THE IMPACTED AREA WITH AN APPLICATION FOR~~
 24 ~~CERTIFICATION AS A QUALIFIED BUSINESS.~~

25 ~~(II) THE APPLICATION SHALL IDENTIFY THE DOCUMENTATION~~
 26 ~~NECESSARY TO ESTABLISH THE LOSS OF BUSINESS INCOME NECESSARY FOR A~~
 27 ~~BUSINESS ENTITY TO BE CERTIFIED AS A QUALIFIED BUSINESS.~~

28 ~~(D) FOR EACH BUSINESS ENTITY CERTIFIED AS A QUALIFIED BUSINESS~~
 29 ~~UNDER SUBSECTION (C) OF THIS SECTION, THE DEPARTMENT OF TRANSPORTATION~~
 30 ~~SHALL DETERMINE THE DATE ON WHICH THE CERTIFICATION WILL EXPIRE.~~

31 (B) (1) THERE IS A PURPLE LINE CONSTRUCTION ZONE GRANT
 32 PROGRAM.

1 **(2) THE PURPOSE OF THE GRANT PROGRAM IS TO PROVIDE FUNDS**
2 **TO QUALIFIED SMALL BUSINESSES TO ASSIST IN OFFSETTING BUSINESS REVENUE**
3 **LOST AS A RESULT OF THE CONSTRUCTION OF THE PURPLE LINE LIGHT RAIL**
4 **PROJECT IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.**

5 **(C) THE DEPARTMENT SHALL IMPLEMENT AND ADMINISTER THE GRANT**
6 **PROGRAM.**

7 **(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**
8 **DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF TRANSPORTATION,**
9 **SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION, INCLUDING**
10 **REGULATIONS TO:**

11 **(I) ESTABLISH ELIGIBILITY AND GRANT APPLICATION**
12 **REQUIREMENTS; AND**

13 **(II) ESTABLISH A PROCESS FOR REVIEWING GRANT**
14 **APPLICATIONS AND AWARDED GRANTS TO ELIGIBLE QUALIFIED SMALL**
15 **BUSINESSES.**

16 **(2) IN DEVELOPING THE REGULATIONS REQUIRED UNDER**
17 **PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT AND THE DEPARTMENT**
18 **OF TRANSPORTATION SHALL CONSULT QUALIFIED SMALL BUSINESSES TO ENSURE**
19 **THAT THE ELIGIBILITY AND APPLICATION REQUIREMENTS FOR THE GRANT**
20 **PROGRAM ARE NOT OVERLY BURDENSOME TO QUALIFIED SMALL BUSINESSES.**

21 **(3) THE DEPARTMENT SHALL MAKE THE APPLICATION DEVELOPED**
22 **FOR PURPOSES OF THE GRANT PROGRAM AVAILABLE TO QUALIFIED SMALL**
23 **BUSINESSES AS SOON AS PRACTICABLE.**

24 **(E) (1) (I) SUBJECT TO THE LIMITATIONS OF THIS PARAGRAPH, THE**
25 **DEPARTMENT SHALL ESTABLISH, BY REGULATION, A GUIDELINE TO CALCULATE**
26 **THE AMOUNT OF A GRANT AWARDED UNDER THIS SECTION.**

27 **(II) IN ESTABLISHING GUIDELINES UNDER SUBPARAGRAPH (I)**
28 **OF THIS PARAGRAPH, THE DEPARTMENT OF COMMERCE MAY USE A 12-MONTH**
29 **PROJECTION OF THE DIFFERENCE BETWEEN THE BUSINESS REVENUE OF A**
30 **QUALIFIED SMALL BUSINESS DURING THE 3-MONTH PERIOD IMMEDIATELY**
31 **PRECEDING THE START OF THE PURPLE LINE CONSTRUCTION COMPARED TO THE**
32 **3-MONTH PERIOD IMMEDIATELY FOLLOWING THE START OF THE PURPLE LINE**
33 **CONSTRUCTION.**

1 (III) A GRANT AWARDED UNDER THE GRANT PROGRAM MAY NOT
 2 EXCEED \$50,000.

3 (2) SUBJECT TO THE ELIGIBILITY REQUIREMENTS ESTABLISHED
 4 UNDER SUBSECTION (D) OF THIS SECTION, IF A QUALIFIED SMALL BUSINESS IS
 5 REQUIRED TO BE REGISTERED WITH THE STATE AND IS REGISTERED, THE
 6 QUALIFIED SMALL BUSINESS MAY APPLY FOR A GRANT UNDER THE GRANT
 7 PROGRAM REGARDLESS OF OWNERSHIP OR LOCATION.

8 (3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE
 9 DEPARTMENT MAY AWARD GRANTS UNTIL ALL THE MONEY ALLOTTED FOR THE
 10 GRANT PROGRAM HAS BEEN AWARDED OR UNTIL DECEMBER 31, 2024, WHICHEVER
 11 OCCURS FIRST.

12 (II) THE DEPARTMENT MAY NOT AWARD MORE THAN ONE
 13 GRANT TO THE SAME QUALIFIED SMALL BUSINESS IN A 12-MONTH PERIOD.

14 (4) ANY MONEY THAT HAS NOT BEEN AWARDED ON OR BEFORE
 15 DECEMBER 31, 2024, SHALL REVERT TO THE MARYLAND ECONOMIC
 16 DEVELOPMENT ASSISTANCE FUND.

17 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall be
 18 applicable to all taxable years beginning after December 31, 2019.

19 ~~SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall be~~
 20 ~~applicable to all taxable years beginning after June 30, 2020.~~

21 SECTION ~~5~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
 22 ~~June~~ July 1, 2020. It shall remain effective for a period of 5 years and, at the end of June
 23 30, 2025, this Act, with no further action required by the General Assembly, shall be
 24 abrogated and of no further force and effect.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.