

SENATE BILL 66

Q3

0lr1134

(PRE-FILED)

By: **Senator Ellis**

Requested: October 30, 2019

Introduced and read first time: January 8, 2020

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax – Credit for Small Businesses – State Minimum Wage Increase**

3 FOR the purpose of allowing a credit against the State income tax for certain wages paid
4 by certain small businesses during the taxable year to certain minimum wage
5 employees under certain circumstances; requiring the Maryland Department of
6 Labor, on application by a small business, to issue a tax credit certificate in a certain
7 amount; requiring the application to contain certain information; requiring the
8 Department to notify applicants of approval or denial of an application within a
9 certain number of days after receipt of the application; prohibiting the Department
10 from issuing tax credit certificates to certain small businesses for wages paid after a
11 certain date; making the credit refundable under certain circumstances; requiring
12 the Department to report certain information to the Comptroller on or before a
13 certain date each year; requiring the Department to adopt certain regulations;
14 defining certain terms; providing for the application of this Act; and generally
15 relating to an income tax credit for wages paid by small businesses.

16 BY adding to
17 Article – Tax – General
18 Section 10–751
19 Annotated Code of Maryland
20 (2016 Replacement Volume and 2019 Supplement)

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

23 **Article – Tax – General**

24 **10–751.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

(2) "DEPARTMENT" MEANS THE MARYLAND DEPARTMENT OF LABOR.

(3) "QUALIFIED EMPLOYEE" MEANS AN INDIVIDUAL WHO:

(I) IS EMPLOYED BY A QUALIFIED SMALL BUSINESS; AND

(II) EARNS WAGES PAID BY THE QUALIFIED SMALL BUSINESS AT A RATE EQUAL TO THE STATE MINIMUM WAGE FOR THE TAXABLE YEAR.

(4) "QUALIFIED SMALL BUSINESS" MEANS AN INDIVIDUAL, A PARTNERSHIP, A LIMITED PARTNERSHIP, A LIMITED LIABILITY PARTNERSHIP, A LIMITED LIABILITY COMPANY, OR A CORPORATION THAT EMPLOYS 50 OR FEWER EMPLOYEES IN THE STATE, AT LEAST ONE OF WHOM IS A QUALIFIED EMPLOYEE.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A SMALL BUSINESS THAT EMPLOYS A QUALIFIED EMPLOYEE MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN THE AMOUNT STATED ON THE TAX CREDIT CERTIFICATE ISSUED UNDER SUBSECTION (C) OF THIS SECTION.

(2) THE TAX CREDIT UNDER THIS SECTION MAY NOT BE CLAIMED IN ANY TAXABLE YEAR IN WHICH THE FEDERAL MINIMUM WAGE IS EQUAL TO OR EXCEEDS THE STATE MINIMUM WAGE.

(C) (1) ON APPLICATION BY A QUALIFIED SMALL BUSINESS, THE DEPARTMENT SHALL ISSUE A TAX CREDIT CERTIFICATE IN AN AMOUNT EQUAL TO THE PRODUCT OF:

(I) THE STATE EMPLOYER WITHHOLDING AMOUNT, WHICH IS EQUAL TO THE HIGHEST TAX RATE LISTED IN § 10-105(A) OF THIS TITLE; AND

(II) THE TOTAL WAGES PAID TO EACH QUALIFIED EMPLOYEE DURING THE TAXABLE YEAR THAT ARE ATTRIBUTABLE TO THE DIFFERENCE BETWEEN THE STATE MINIMUM WAGE RATE AND \$10.10 PER HOUR.

(2) THE APPLICATION SHALL INCLUDE:

(I) THE NAME OF THE QUALIFIED SMALL BUSINESS;

(II) EVIDENCE THAT THE QUALIFIED SMALL BUSINESS IS:

1 1. DULY ORGANIZED AND IN GOOD STANDING IN THE
2 JURISDICTION UNDER THE LAWS UNDER WHICH IT IS ORGANIZED;

3 2. CURRENT IN THE PAYMENT OF ALL TAX OBLIGATIONS
4 TO THE STATE OR ANY UNIT OR SUBDIVISION OF THE STATE; AND

5 3. NOT IN DEFAULT UNDER THE TERMS OF ANY
6 CONTRACT WITH, INDEBTEDNESS TO, OR GRANT FROM THE STATE OR ANY UNIT OR
7 SUBDIVISION OF THE STATE;

8 (III) PROOF OF THE WAGES PAID TO EACH QUALIFIED
9 EMPLOYEE; AND

10 (IV) ANY OTHER INFORMATION THAT THE DEPARTMENT
11 REQUIRES.

12 (3) THE DEPARTMENT SHALL NOTIFY THE QUALIFIED SMALL
13 BUSINESS WITHIN 45 DAYS AFTER THE RECEIPT OF THE APPLICATION OF THE
14 DEPARTMENT'S APPROVAL OR DENIAL OF THE APPLICATION.

15 (4) THE DEPARTMENT MAY NOT ISSUE A TAX CREDIT CERTIFICATE
16 TO A QUALIFIED SMALL BUSINESS FOR WAGES PAID:

17 (I) AFTER DECEMBER 31, 2030, TO QUALIFIED EMPLOYEES, IF
18 THE QUALIFIED SMALL BUSINESS EMPLOYS 15 OR MORE EMPLOYEES; OR

19 (II) AFTER JUNE 30, 2032, TO QUALIFIED EMPLOYEES, IF THE
20 QUALIFIED SMALL BUSINESS EMPLOYS 14 OR FEWER EMPLOYEES.

21 (D) IF THE TAX CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE
22 YEAR EXCEEDS THE STATE INCOME TAX OF THE QUALIFIED SMALL BUSINESS FOR
23 THAT TAXABLE YEAR, THE QUALIFIED SMALL BUSINESS MAY CLAIM A REFUND IN
24 THE AMOUNT OF THE EXCESS.

25 (E) ON OR BEFORE JANUARY 31 EACH TAXABLE YEAR, THE DEPARTMENT
26 SHALL REPORT TO THE COMPTROLLER ON THE TAX CREDIT CERTIFICATES ISSUED
27 UNDER THIS SECTION DURING THE PRIOR TAXABLE YEAR.

28 (F) THE DEPARTMENT AND THE COMPTROLLER JOINTLY SHALL ADOPT
29 REGULATIONS TO:

30 (1) IMPLEMENT THE PROVISIONS OF THIS SECTION; AND

1 **(2) SPECIFY CRITERIA AND PROCEDURES FOR THE APPLICATION**
2 **FOR, APPROVAL OF, AND MONITORING OF CONTINUING ELIGIBILITY FOR THE TAX**
3 **CREDIT UNDER THIS SECTION.**

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
5 1, 2020, and shall be applicable to all taxable years beginning after December 31, 2019.