

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2010 Legislative Session

Bill No. CB-9-2010

Chapter No. 20

Proposed and Presented by The Chairman (by request – County Executive)

Introduced by Council Members Dernoga, Harrison, Turner, Exum and Dean

Co-Sponsors _____

Date of Introduction June 15, 2010

BILL

1 AN ACT concerning

2 New Jobs Tax Credit

3 For the purpose of creating a property tax credit and enhanced property tax credit against the
4 County property tax imposed on real property owned or leased by business entities, and on
5 personal property owned by business entities, that meet certain requirements related to the
6 creation of new jobs; and generally providing for a new jobs tax credit as authorized by State
7 law.

8 BY adding:

9 SUBTITLE 10. FINANCE AND TAXATION.
10 Sections 10-235.13 – 10-235.18,
11 The Prince George's County Code
12 (2007 Edition, 2009 Supplement).

13 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
14 Maryland, that Sections 10-235.13 through 10-235.18 of the Prince George's County Code be
15 and the same are hereby added:

16 SUBTITLE 10. FINANCE AND TAXATION.

17 DIVISION 8. TAX ASSESSMENT, LEVY, AND COLLECTION.

18 **SUBDIVISION 5H. NEW JOBS PROPERTY TAX CREDITS.**

19 **Sec. 10-235.13. Definitions.**

20 (a) In this Subdivision, the following words have the meanings indicated.

21 (1) **Affiliate** means a person:

1 (A) that directly or indirectly owns at least 80% of a business entity; or

2 (B) 80% of which is owned, directly or indirectly, by a business entity.

3 (2) **Business Entity** means a person conducting a trade or business in the State of
 4 Maryland, that is subject to the State individual or corporate income tax, insurance premiums
 5 tax, financial institutions franchise tax, or public service company franchise tax.

6 (3) **Director** means the Director of the Office of Finance or the Director’s designee.

7 (4) **Enhanced New Jobs Tax Credit** means the credit granted under this Subdivision
 8 to a qualified business entity against the County property tax imposed on the new or expanded
 9 premises that qualify under state law for an enhanced new jobs tax credit and the personal
 10 property located on those premises.

11 (5) **New Jobs Tax Credit** means the credit granted under this Subdivision to a
 12 qualified business entity against the County property tax imposed on the new or expanded
 13 premises and the personal property located on those premises.

14 (6) (A) **New Permanent Full-time Position** means a position that is:

15 (i) a full-time position of indefinite duration;

16 (ii) located in Maryland;

17 (iii) newly created, as a result of the establishment of a business facility in
 18 Maryland; and

19 (iv) filled.

20 (B) **New Permanent Full-time Position** does not include a position that is:

21 (i) created when an employment function is shifted from an existing
 22 facility of the business entity or its affiliates located in Maryland to another business facility of
 23 the same business entity or its affiliates, if the position does not represent a net new job in the
 24 State.

25 (ii) created through a change in ownership of a trade or business;

26 (iii) created through a consolidation, merger, or restructuring of a business
 27 entity or its affiliates, if the position does not represent a net new job in the State;

28 (iv) created when an employment function is contractually shifted from an
 29 existing business entity or its affiliates, located in the State to another business entity or its
 30 affiliates, if the position does not represent a net new job in the State; or

31 (v) filled for a period of less than 12 months.

1 (7) New or Expanded Premises means real property, including a building or part of
 2 a building that has not been previously occupied, where a business entity or its affiliates locate to
 3 conduct business.

4 (8) Notification Date means the date on which the business entity provides written
 5 notice to the County as required under Section 10-235.18 of this Subdivision.

6 **Sec. 10-235.14. Tax credits.**

7 (a) There is a Prince George’s County New Jobs Tax Credit and an Enhanced New Jobs
 8 Tax Credit against the County property tax imposed on real property owned or leased by a
 9 business entity or its affiliates and on personal property owned by that business entity or its
 10 affiliates if the business entity qualifies for either credit under this Subdivision.

11 (b) A tax credit may not be granted under this Subdivision if:

12 (1) the business entity has moved the operations which are located on new or
 13 expanded premises from another county (including Baltimore City) in Maryland;

14 (2) the business entity or another taxpayer has been given a tax credit or exemption
 15 for the new or expanded premises during the same taxable year under any other state or county
 16 law; or

17 (3) the location of the new or expanded premises is inconsistent with any applicable
 18 land use master plan.

19 (c) To qualify for a credit under this Subdivision, the new or expanded premises must be
 20 located in a priority funding area as designated in Title 5, Subtitle 7B of the State Finance and
 21 Procurement Article of the Maryland Code.

22 (d) To qualify for a credit against property tax imposed on personal property, a business
 23 entity must certify that the personal property is located on premises that qualify for a new jobs
 24 tax credit or enhanced new jobs tax credit under this Subdivision.

25 **Sec. 10-235.15. Eligibility for tax credits.**

26 (a) New Jobs Tax Credit.

27 (1) To qualify for a New Jobs Tax Credit under this Subdivision, a business entity
 28 shall:

29 (A) obtain at least 5,000 square feet of new or expanded premises in the County
 30 by purchasing newly constructed premises, constructing new premises, causing new premises to
 31 be constructed, or leasing newly constructed premises; and

1 (B) employ at least 25 persons, of which at least thirty percent (30%) shall be
 2 County residents, in new permanent full-time positions located in the new or expanded premises
 3 in the County during a 24-month period, during which the business entity must also occupy the
 4 new or expanded premises.

5 (b) Enhanced New Jobs Tax Credit.

6 (1) To qualify for an Enhanced New Jobs Tax Credit under this Subdivision, a
 7 business entity, along with its affiliates, shall:

8 (A) (i) obtain at least 250,000 square feet of new or expanded premises in the
 9 County by purchasing newly constructed premises, constructing new premises, causing new
 10 premises to be constructed, or leasing newly constructed premises;

11 (ii) continue to employ at least 2,500 individuals in existing full-time
 12 positions paying at least 150% of the federal minimum wage and located at premises in the State
 13 where the business entity, along with its affiliates, is primarily engaged in one or more of the
 14 industries listed in Paragraph (2) of this Subsection; and

15 (iii) employ at least 500 individuals, of which at least thirty percent (30%)
 16 shall be County residents, in new permanent full-time positions paying at least 150% of the
 17 federal minimum wage and located in the new or expanded premises in the County and, if
 18 applicable, in newly renovated premises adjoining or otherwise neighboring the new or expanded
 19 premises; or

20 (B) (i) obtain at least 250,000 square feet of new or expanded premises in the
 21 County by purchasing newly constructed premises, constructing new premises, causing new
 22 premises to be constructed, or leasing newly constructed premises; and

23 (ii) employ at least 1,250 individuals, of which at least thirty percent (30%)
 24 shall be County residents, in new permanent full-time positions paying at least 150% of the
 25 federal minimum wage and located in the new or expanded premises in the County and, if
 26 applicable, in newly renovated premises adjoining or otherwise neighboring the new or expanded
 27 premises.

28 (2) To qualify for an Enhanced New Jobs Tax Credit under this Subdivision, a
 29 business entity, along with its affiliates, shall primarily be engaged in one or more of the
 30 following at the qualifying premises:

31 (A) manufacturing or mining;

1 (B) transportation or communications;

2 (C) agriculture, forestry, or fishing;

3 (D) research, development, or testing;

4 (E) biotechnology;

5 (F) computer programming, data processing, or other computer-related services;

6 (G) central services as defined in § 6-101 of the Economic Development Article
 7 of the Maryland Code;

8 (H) the operation of central administrative services as defined in § 6-101 of the
 9 Economic Development Article of the Maryland Code;

10 (I) a public utility;

11 (J) warehousing; or

12 (K) business services.

13 (3) To qualify for the Enhanced New Jobs Tax Credit under this Subdivision, a
 14 business entity shall:

15 (A) within a 6-year period beginning on the notification date, employ individuals
 16 in the number of new permanent full-time positions required under Paragraph (1) of this
 17 Subsection;

18 (B) during the 6-year hiring period, obtain and occupy the new or expanded
 19 premises and, if applicable, the newly renovated premises adjoining or otherwise neighboring the
 20 new or expanded premises; and

21 (C) during the 6-year hiring period, comply with all other requirements for the
 22 credits described in this Subsection and in any applicable local law.

23 **Sec. 10-235.16. Amount of tax credits; pass-through to lessees.**

24 (a) If a business entity meets the requirements of Section 10-235.14 and Subsection 10-
 25 235.15(a) of this Subdivision, and any applicable State law, the Director shall compute the
 26 amount of the New Jobs Tax Credit granted under this Subdivision for new or expanded
 27 premises and the personal property located on those premises that may be claimed against the
 28 County property taxes that would otherwise be due to equal a percentage of the amount of
 29 property tax imposed on the assessment of the new or expanded premises, as follows:

30 (1) 52% during the first and second taxable years in which a credit is allowed;

31 (2) 39% during the third and fourth taxable years in which a credit is allowed;

- 1 (3) 26% during the fifth and sixth taxable years in which a credit is allowed; and
- 2 (4) 0% for each taxable year thereafter.

3 (b) If a business entity meets the requirements of Section 10-235.14 and Subsection 10-
 4 235.15(b) of this Subdivision, and any applicable State law, for the first 12 taxable years after it
 5 qualifies for the credit, an Enhanced New Jobs Tax Credit may be claimed against the County
 6 property taxes that would otherwise be due.

7 (1) The Director shall compute the amount of the property tax credit granted to equal
 8 58.5% of the amount of property tax imposed on the increase in assessment of:

9 (A) the new or expanded premises;

10 (B) newly renovated real property improvements adjoining or otherwise
 11 neighboring the new or expanded premises, if the renovations are substantial; and

12 (C) the personal property located on the premises described in items (A) and (B)
 13 of this Subparagraph.

14 (2) A renovation is substantial for purposes of this Subsection if the renovation
 15 results in a complete rehabilitation of at least 50% of each building on the property.

16 (3) The increase in assessment shall be measured from the notification date to the
 17 applicable annual assessment date after the Director has certified that the business entity has
 18 qualified for the credit.

19 (c) The lessor of real property eligible for property tax credits under this Subdivision shall
 20 reduce by the amount of property tax credits computed under this Subdivision the amount of
 21 taxes for which an eligible business entity is contractually liable under the lease agreement.

22 **Sec. 10-235.17. Recapture of tax credits.**

23 (a) A business entity which does not satisfy all applicable requirements under this
 24 Subdivision to qualify for a tax credit during the three taxable years after any year when a credit
 25 was allowed shall repay the tax credit to the County after receiving notice from the Director that
 26 the credit must be repaid.

27 (b) Interest shall accrue on any repayable tax credit at the rate established for overdue
 28 property taxes, beginning 30 days after the notice from the Director.

29 (c) Any unrepaid tax credit is a lien on real and personal property owned by the business
 30 entity in the same manner as unpaid real property taxes under State and County law.

31 **Sec. 10-235.18. Administration of tax credits.**

1 (a) To qualify for a tax credit under this Subdivision, before it obtains the new or
 2 expanded premises or hires employees to fill the new permanent full-time positions at the new or
 3 expanded premises, a business entity shall, on a form furnished by the Director, provide written
 4 notification to the County:

5 (1) that it intends to claim the property tax credit or enhanced property tax credit;

6 (2) if it intends to claim the enhanced property tax credit, how it expects to meet the
 7 requirements to qualify for the enhanced property tax credit; and

8 (3) when it expects to obtain and occupy the new or expanded premises and hire the
 9 required number of employees in the new permanent full-time positions.

10 (b) If a business entity meets the requirements for a tax credit under this Subdivision, the
 11 Director shall:

12 (1) certify to the Maryland Department of Assessments and Taxation and the
 13 Maryland Department of Business and Economic Development that the business entity has met
 14 the requirements for the tax credit for the taxable year that follows the date on which it met the
 15 requirements; and

16 (2) require submission of reports by the business entity during the three taxable years
 17 after any year when the tax credit was earned to verify that the business entity continues to
 18 satisfy all applicable requirements under this Subdivision.

19 SECTION 2. BE IT FURTHER ENACTED that the provisions of this Act are hereby
 20 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,
 21 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of
 22 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining
 23 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this
 24 Act, since the same would have been enacted without the incorporation in this Act of any such
 25 invalid or unconstitutional word, phrase, clause, sentence, subparagraph, subsection, or section.

26 SECTION 3. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)
 27 calendar days after it becomes law.

Adopted this 13th day of July, 2010.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Thomas E. Dernoga
Chair

ATTEST:

Redis C. Floyd
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Jack B. Johnson
County Executive

KEY:

Underscoring indicates language added to existing law.

[Brackets] indicate language deleted from existing law.

Asterisks *** indicate intervening existing Code provisions that remain unchanged.