


Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: October 30, 2020

SUBJECT: Fiscal Impact Statement – Protecting Local Area Commercial
Enterprises Omnibus Amendment Act of 2020

REFERENCE: Bill 23-432, Draft Committee Print as provided to the Office of Revenue
Analysis on October 29, 2020

Conclusion

Funds are not sufficient in the fiscal year 2021 through fiscal year 2024 budget and financial plan to implement the bill. The bill will cost at least \$27.8 million in fiscal year 2021, and \$111 million over the four-year financial plan. The cost includes a reduction in real property and non-tax revenue, as well as resources for agencies to implement the requirements of the bill. The costs do not include any funding for the grant program nor for the credit enhancement program, which are discretionary and can be implemented with any funding identified. The bill is subject to appropriation in an approved budget and financial plan.

Background

Title I – Legacy Business Program Establishment

Title I of the bill creates a program within the Department of Small and Local Business Development (DSLBD) to certify and register a category of District businesses known as “legacy businesses”. Legacy businesses are defined in the bill as independent, small, and locally owned businesses¹ in

¹ A potential legacy business must be able to demonstrate it is among these types of businesses: 1) retail businesses engaged in the sale of home furnishings, apparel, books, art, groceries, and general merchandise

operation in the District for at least 15 years. They must also have "contributed to the history of the District or to the cultural identity of a particular neighborhood" and can "demonstrate commitment to maintaining physical features or traditions that define its business". DSLBD must maintain a publicly accessible online listing of legacy businesses, promote awareness of legacy businesses, survey the needs of legacy businesses, and make recommendations to support them. The bill gives DSLBD the authority to issue grants – not to exceed \$50,000 per year - to legacy businesses for business improvement, stabilization, or other initiatives. No legacy business may receive more than five grants over the life of the program. DSLBD may set criteria to maintain registration as a legacy business or to receive grant assistance.

The bill creates a ten percent real property tax rebate for taxes paid by legacy businesses or their landlords. The rebate cannot exceed \$1,890 in the first year but is indexed to inflation in subsequent years. The rebate is provided in addition to any other type of credit or incentive. An owner of a space leased to a legacy business is eligible for the rebate if the legacy business is not responsible for paying the real property taxes. Businesses must have paid the real property tax and apply for a rebate by September 15 of the applicable tax year. Rebates must be paid by December 15. DSLBD must certify to the Office of Tax and Revenue the property and taxpayer to which the rebate applies.

When entering or renegotiating a lease with legacy businesses, the bill requires commercial property owners to provide an opportunity for a legacy business to re-negotiate the lease at a price and term not to exceed 51 percent of the overall business expenses. If a landlord has received any financial assistance under the legacy business program, and sells the property, then the legacy business has the right of first refusal.

DSLBD must annually review the efficiency and effectiveness of the Legacy Business Program, and conduct audits, hold hearings, or publish reports on the program, as necessary.

Title II - Small and Local Business Affordability Assistance

Beginning in fiscal year 2022, the bill provides a 20 percent refundable real property tax credit, not to exceed \$10,000, to a qualified small and local corporation that owns, or leases qualified commercial property. A qualified small local corporation is defined as one that is certified by DSLBD as a local business enterprise and has less than \$2.5 million in federal gross receipts or sales. The credit is claimed through the entities' income taxes and is not available to entities that receive any other tax credits toward payment of real property tax, including the retailer property tax relief credit.²

goods to specialized customers; (2) Manufacturers, distributors, incubators, and accelerators; provided that each includes an on-site retail component that sells general or merchandise goods or is a certified Made in DC business pursuant to the Made in DC Program Establishment Act of 2016, effective from July 1, 2016 (D.C. Law 21-0135; D.C. Official Code § 2-1208.31 et seq.); (3) Businesses providing goods, services, or professional services including but not limited to services geared toward the enrichment of children, families, and adults; and (4) Sit-down restaurants, bakeries, coffee shops, and other specialty food retailers.

² D.C. Official Code § 47-1807.14.

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The bill creates a Local Business Credit Enhancement Program to provide qualifying businesses rent guarantees and other credit enhancement services determined by DSLBD. DSLBD must maintain a Small and Local Business Underwriting Registry to track businesses that are eligible to receive the rent guarantee or other credit enhancement. A local business must apply and demonstrate its business risk to DSLBD annually to determine eligibility.

The bill requires DSLBD to publish a list of average commercial rent per square foot for each census tract, as well as an annual report on the number of eligible business enterprises receiving assistance, the details of grants being made, and an evaluation of the impact of the grant on the businesses.

Lastly, the bill redirects a 1 percent fee³ paid by vendors on total sales on the DC Supply Schedule to the Legacy Business Program established in the bill. Currently, those fees are deposited in Local Funds.

Financial Plan Impact

Funds are not sufficient in the fiscal year 2021 through fiscal year 2024 budget and financial plan to implement the bill. The bill will cost at least \$27.8 million in fiscal year 2021, and \$111 million over the four-year financial plan. The cost includes a reduction in real property and non-tax revenue, as well as resources for agencies to implement the requirements of the bill. The costs do not include any funding for the grant program nor for the credit enhancement program, which are discretionary and can be implemented with any funding identified. The bill is subject to appropriation in an approved budget and financial plan.

We estimate approximately 2,162 businesses will be eligible to receive the legacy business property tax rebate and 1,900 businesses will be eligible to take the property tax credit. For the purposes of this analysis we assume the maximum credit and rebate amount is allowed for each of these businesses and that most will receive the credit or rebate. Because legacy businesses are also small and local business eligible, and the bill does not exclude business from receiving other assistance while receiving the rebate, some businesses will be eligible for both the rebate and the credit.

The bill establishes a Legacy Business Program through which eligible businesses will be able to apply for grants of up to \$50,000 and a credit enhancement program that can provide rent guarantees and similar credit enhancements. Both programs can only be implemented once funding is available, but as these are discretionary programs the scope of the programs can be decided in a future budget.

The bill redirects a one percent fee charged on all D.C. Supply Schedule purchase from the local fund to the Legacy Business Program. This reduction in local fund non-tax revenue will cost approximately \$326,000 in fiscal year 2021 and increase annually.

DSLBD is required to manage two new programs in this bill (the Legacy Business grant program and the Local Business Credit Enhancement program), and to take and approve applications for tax rebates and credits, including certifying those credits and rebates to the Office of Tax and Revenue.

³ The fee is authorized in D.C. Official Code § 2-361.03 and dedicated to the unrestricted fund balance of the General Fund.

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In addition to overall management, the bill requires DSLBD to certify legacy businesses, perform audits, publish reports, and track average commercial rents in the District. To meet the requirements of the bill, DLSBD will require 1 FTE and an estimated \$120,000 for informational technology modifications to create a new certified business category in its enterprise system. Lastly, the Office of Tax and Revenue will require 1 FTE to manage the rebates and credits created in the bill.

Protecting Local Area Commercial Enterprises Omnibus Amendment Act of 2020					
Bill 23-432					
Fiscal Year 2021 – Fiscal Year 2024					
(\$ thousands)					
	FY 2021	FY 2022	FY 2023	FY 2024	Total
Real Property Revenue Reduction from Legacy Business rebates	\$4,094	\$4,094	\$4,094	\$4,094	\$16,376
Real Property Revenue Reduction from small and local business tax credit	\$23,094	\$23,094	\$23,094	\$23,094	\$92,376
Redirection of 1% supply schedule fee	\$326	\$359	\$395	\$434	\$1,515
TOTAL REVENUE REDUCTION	\$27,514	\$27,547	\$27,583	\$27,622	\$110,266
DSLBD Personal Services	\$115	\$115	\$115	\$115	\$460
DSLBD Non-personal Services	\$120	\$0	\$0	\$0	\$120
Office of Tax and Revenue Personal Services	\$112	\$112	\$112	\$112	\$448
TOTAL COST	\$347	\$227	\$227	\$227	\$1,028
TOTAL FISCAL IMPACT	\$27,861	\$27,774	\$27,810	\$27,849	\$111,294