

Subject: Bill 23-19, Cybersecurity Investment Incentive Tax Credit Supplement- Amendments	
Purpose: To introduce agenda item – no vote expected	
Analyst: Christine M.H. Wellons, Legislative Attorney <i>CWellons</i>	Committee:
Keywords: #CybersecurityTaxCredit Other search terms: cybersecurity investment, Maryland Cybersecurity Investment Tax Credit Program, qualified investor, cybersecurity company, tax credit, cybersecurity incentive.	

EXPECTED ATTENDEES

None.

DESCRIPTION/ISSUE

Bill 23-19 would allow a “qualified investor” to receive the County’s supplement to the state’s cybersecurity investment incentive tax credit. Currently, the County law provides that a qualified “company” may receive the supplement. State law, however, was amended in 2018 to provide that a certain “investor” – which may be an individual or an entity – qualifies for the credit. Likewise, Bill 23-19 will allow certain individuals or organizations, as opposed to companies alone, to qualify for the County supplement.

This report contains:

Detailed Staff Report

Bill 23-19

Legislative Request Report

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MEMORANDUM

July 11, 2019

TO: County Council

FROM: Christine M.H. Wellons, Legislative Attorney

SUBJECT: Bill 23-19, Cybersecurity Investment Incentive Tax Credit Supplement-Amendments

PURPOSE: Introduction – no Council votes required

Bill 23-19, Cybersecurity Investment Incentive Tax Credit Supplement - Amendments, sponsored by Lead Sponsors Councilmembers Riemer, Friedson and Jawando, is scheduled to be introduced on July 16, 2019. A public hearing is tentatively scheduled for September 10 at 1:30 p.m.¹

Bill 23-19 would allow a “qualified investor” to receive the cybersecurity investment incentive tax credit supplement.

Background

The purpose of Bill 23-19 is to update the County’s tax credit supplement under Code Section 20-76D in order to align it with the state’s cybersecurity investment credit under § 10-733 of the Tax-General Article of the Annotated Code of Maryland.

County Code Section 20-76D provides a supplement to the state’s tax credit for certain cybersecurity company investments in the County. In 2018, the General Assembly amended the underlying state credit, § 10-733 of the Tax-General Article, to provide that a qualified “investor,” rather than a qualified “cybersecurity company,” is eligible for the state tax credit.

Similarly, Bill 23-19 provides that a qualified “investor,” as opposed to a qualified “company,” will be eligible for the County supplement. The investor may be an entity or an individual.

This packet contains:

Bill 23-19

Legislative Request Report

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¹#CybersecurityTaxCredit

Other search terms: cybersecurity investment, Maryland Cybersecurity Investment Tax Credit Program, qualified investor, cybersecurity company, tax credit, cybersecurity incentive.

Bill No. 23-19
Concerning: Cybersecurity Investment
Incentive Tax Credit Supplement-
Amendments
Revised: 06/18/2019 Draft No. 1
Introduced: July 16, 2019
Expires: January 16, 2021
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmembers Riemer, Friedson and Jawando

AN ACT to:

- (1) allow a qualified investor to receive the cybersecurity investment incentive tax credit supplement; and
- (2) generally amend the law related to the cybersecurity investment incentive tax credit supplement.

By amending

Montgomery County Code
Chapter 20, Finance
Section 20-76D

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec 1. Section 20-76D is amended as follows:**

2 **20-76D. Fees.**

3 (a) The Director of Finance must pay, subject to appropriation, a
4 Cybersecurity Investment Incentive Tax Credit Supplement to each
5 [Cybersecurity Company] Qualified Investor who meets certain
6 eligibility standards.

7 (b) [A Cybersecurity Company] An individual or entity is a Qualified
8 Investor eligible to receive the Supplement if:

9 (1) the [Company] individual or entity has been designated as a
10 qualified [Cybersecurity Company] investor under state law and
11 has received a final tax credit certificate for the Maryland
12 cybersecurity investment incentive tax credit for the preceding
13 calendar year; and

14 (2) the tax credit received by the [Cybersecurity Company] individual
15 or entity was generated by an investment in a qualified Maryland
16 cybersecurity company, as defined in state law, that has its
17 headquarters and base of operations in the County.

18 (c) The County Executive, by regulations issued under Method (1), may
19 impose other eligibility standards. However, those standards must not
20 make any [Cybersecurity Company] Qualified Investor ineligible to
21 receive the Supplement who would be eligible under subsection (b).

22 (d) (1) The Supplement paid to each [eligible Cybersecurity Company]
23 Qualified Investor must equal the product of:

24 (A) the amount of the credit the [Company] Qualified Investor
25 received under the State Cybersecurity Investment Tax
26 Credit Program, divided by the total amount of credits all
27 Montgomery County [cybersecurity companies] individuals

28 and entities received under the State Cybersecurity
 29 Investment Tax Credit Program during the preceding
 30 calendar year; and

31 (B) the total amount of funds appropriated to the Supplement
 32 Program for that fiscal year.

33 (2) The Supplement paid to any [Cybersecurity Company] Qualified
 34 Investor must not exceed:

35 (A) 50% of the State tax credit that the [Company] individual or
 36 entity receives from the Maryland Cybersecurity
 37 Investment Tax Credit Program in the preceding calendar
 38 year; or

39 (B) 15% of the total annual appropriation for the Supplement
 40 program.

41 (e) The Director of Finance must request from the Comptroller of the
 42 Treasury and [Department of Business and Economic Development]
 43 Maryland Department of Commerce, by April 30 of each year, a list of
 44 each [Cybersecurity Company,] qualified investor who:

45 (1) invested in a qualified Maryland cybersecurity company
 46 headquartered and based in Montgomery County [that]; and

47 (2) was issued a final credit certificate by the State during the
 48 preceding calendar year.

49 [The Executive may issue regulations under Method (1) to implement this
 50 Section.]

51 (f) If the Comptroller of the Treasury agrees, the Director of Finance may
 52 arrange for the Comptroller to pay the Supplement on behalf of the
 53 County. To the extent that the Comptroller does not pay the supplement,
 54 the Director must pay the supplement within 60 days after receiving this

55 list to each [qualified Cybersecurity Company that was issued a final
56 credit certificate from the State] Qualified Investor.

57 (g) [A Cybersecurity Company] An individual or entity who submits a false
58 or fraudulent application, or withholds material information, to obtain a
59 payment under this Section has committed a Class A violation. In
60 addition, the [Cybersecurity Company] individual or entity must repay
61 the County for all amounts improperly paid and all accrued interest and
62 penalties that would apply to those amounts as if they were overdue taxes.
63 [A Cybersecurity Company] An individual or entity who violates this
64 Section is liable for all court costs and expenses of the County in any civil
65 action brought by the County to recover any payment, interest, or penalty.
66 The County may collect any amount due, and otherwise enforce this
67 Section, by any appropriate legal action.

68 (h) If all or part of the allowed state tax credit is recaptured under the
69 applicable state law, the [Cybersecurity Company] Qualified Investor
70 must repay the County within 60 days the portion of any Supplement paid
71 by the County that was based on the recaptured credit.

72 (i) The Executive may issue regulations under Method (1) to implement this
73 Section.

LEGISLATIVE REQUEST REPORT

Bill 23-19

Cybersecurity Investment Incentive Tax Credit Supplement- Amendments

DESCRIPTION: Bill 23-19, Cybersecurity Investment Incentive Tax Credit Supplement- Amendments, would allow a qualified investor to receive the cybersecurity investment incentive tax credit supplement consistent with state law.

PROBLEM: County Code Section 20-76D provides a supplement to the state's tax credit for cybersecurity company investments. In 2018, the General Assembly amended the state credit, § 10-733 of the Tax-General Article of the Annotated Code of Maryland, to provide that a certain "qualified investor," rather than a qualified "company" is eligible for the credit. The County law still refers to qualified companies, rather than investors. An "investor" may be an individual or an entity.

GOALS AND OBJECTIVES: The objective of Bill 23-19 is to update the County's tax credit supplement under Code Section 20-76D to align with the state's cybersecurity investment credit under § 10-733 of the Tax-General Article.

COORDINATION: Department of Finance

FISCAL IMPACT: OMB

ECONOMIC IMPACT: Finance

EVALUATION: To be done.

EXPERIENCE ELSEWHERE: To be researched.

SOURCE OF INFORMATION: Christine M.H. Wellons, Legislative Attorney

APPLICATION WITHIN MUNICIPALITIES: N/A

PENALTIES: An individual or entity that submits a false or fraudulent application for the tax credit supplement has committed a Class A violation under County Code Section 20-76D.