

MEMORANDUM

September 11, 2019

TO: Planning, Housing and Economic Development Committee

FROM: Christine M.H. Wellons, Legislative Attorney *CWellons*

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

PURPOSE: Worksession – Committee to make recommendations

Bill 23-19, Cybersecurity Investment Incentive Tax Credit Supplement - Amendments, sponsored by Lead Sponsors Councilmembers Riemer, Friedson and Jawando, was introduced on July 16, 2019. A public hearing was held on September 10, 2019, at which there were no speakers.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.

Council staff recommends approval of Council Bill 23-19.

This packet contains:	<u>Circle #</u>
Bill 23-19	1
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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. Cybersecurity Investment Incentive Tax Credit Supplement.**

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.



OFFICE OF MANAGEMENT AND BUDGET

Marc Elrich
County Executive

Richard S. Madaleno
Director

MEMORANDUM

August 2, 2019

TO: Nancy Navarro, President, County Council

FROM: Richard S. Madaleno, Director, Office of Management and Budget *RSM*
Michael Coveyou, Acting Director, Department of Finance *Michael Coveyou*

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

Please find attached the Fiscal and Economic Impact Statements for the above-referenced legislation.

RSM:cm

cc: Andrew Kleine, Chief Administrative Officer
Fariba Kassiri, Deputy Chief Administrative Officer
Debbie Spielberg, Special Assistant to the County Executive
Dale Tibbitts, Special Assistant to the County Executive
Lisa Austin, Office of the County Executive
Barry Hudson, Director, Public Information Office
David Platt, Department of Finance
Dennis Hetman, Department of Finance
Monika Coble, Office of Management and Budget
Chrissy Mireles, Office of Management and Budget
Pofen Salem, Office of Management and Budget

Office of the Director

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Fiscal Impact Statement
Bill 23-19 Cybersecurity Tax Credit Supplement - Amendment

1. Legislative Summary

This legislation would allow a “qualified investor” to receive the County’s supplement to the State of Maryland’s (State) cybersecurity incentive tax credit. State law was amended in 2018 to provide that a certain “investor” - an individual or an entity – qualifies for the credit. Bill 23-19 would allow individuals or an entity, including organizations, to qualify for the County supplement. The legislation would create parity between the State and County financial incentive programs as related to the recipient of the State tax credit and local matching grant. As a result, the recipient of the tax credit in County-based cybersecurity companies is transferred from the company to the “qualified investor”. Qualified investors must invest in cybersecurity firms located in the County in order to qualify for the local matching grant, but the investor does not need to be located in the County.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

Bill 23-19 will not impact County expenditures and revenues. According to data from the Montgomery County Economic Development Corporation (MCEDC), there are 149 cybersecurity companies in the County. Since 2015, a total of six (6) local cybersecurity companies have received thirteen (13) total investments that have been eligible for the local match under the existing program. We do not anticipate considerable changes in the usage of this program under the current State law.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

Per Question #2, this Bill does not impact County revenue or expenditures over the next six years. It is estimated that the expenditures for the next six fiscal years will be maintained at \$125,000 per year.

4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

Not applicable.

5. An estimate of expenditures related to County’s information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.

Not applicable.

6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

Future revenue and expenditures could be affected if there are changes made to the method used for calculating the local match to the State’s tax credit. At this point, that is not anticipated and would require an amendment to County Code, as the method of calculating the grant is stipulated in the Code.

7. An estimate of the staff time needed to implement the bill.

No additional staff time will be required – this is an amendment to an existing tax credit supplement program.

8. An explanation of how the addition of new staff responsibilities would affect other duties.

Not applicable.

9. An estimate of costs when an additional appropriation is needed.

Not applicable.

10. A description of any variable that could affect revenue and cost estimates.

The variables that could affect revenue and cost estimates are the number of qualified investors who are eligible for the grant. Grant eligibility is based upon an investor's ability to claim a cybersecurity tax credit from the State of Maryland. The State would determine the number of investors and cybersecurity companies eligible for the County's grant and the investor's eligibility to receive a tax credit. The investor receives the tax credit from the State, and the County provides a local matching grant.

11. Ranges of revenue or expenditures that are uncertain or difficult to project.

It is difficult to project whether the change in legislation providing the tax credit and local supplement to the investor rather than to a cybersecurity company will have an increase in investments being made in local cybersecurity firms.

12. If a bill is likely to have no fiscal impact, why that is the case.

See Question #2.

13. Other fiscal impacts or comments.

Not applicable.

14. The following contributed to and concurred with this analysis:

Laurie Boyer and Peter McGinnity, Department of Finance

Pofen Salem, Office of Department Management and Budget



Richard S. Madaleno, Director
Office of Management and Budget



Date

Economic Impact Statement
Bill 23-19, Cybersecurity Investment Tax Credit Supplement - Amendment

Background:

This legislation would allow a “qualified investor” to receive the County’s supplement to the State of Maryland’s (State) cybersecurity incentive tax credit. State law was amended in 2018 to provide that a certain “investor” - an individual or an entity – qualifies for the credit. Bill 23-19 would allow individuals or an entity including organizations to qualify for the County supplement. The legislation would create parity between the State and County financial incentive programs as related to the recipient of the State tax credit and local matching grant. As a result, the recipient of the tax credit in County-based cybersecurity companies is transferred from the company to the “qualified investor”. Qualified investors must invest in cybersecurity firms located in the County in order to qualify for the local matching grant, but the investors themselves do not need to be located in the County.

1. The sources of information, assumptions, and methodologies used.

According to data from the Montgomery County Economic Development Corporation, there are 149 cybersecurity companies located in the County compared to over 300 bio-health/life science companies. The Department of Finance (Finance) made no assumptions or used any methodologies in the preparation of the economic impact statement.

2. A description of any variable that could affect the economic impact estimates.

The variables that could affect the economic impact estimates are the number of companies and investors who are eligible for the grant. The State would determine the number of investors and cybersecurity companies eligible for the County’s grant and the investor’s eligibility to receive a tax credit. The investor receives the tax credit from the State, and the county provides a local matching grant.

3. The Bill's positive or negative effect, if any on employment, spending, savings, investment, incomes, and property values in the County.

Bill 23-19 would have a positive economic effect on investment for both the individual investor and the company. The local matching grant would give the County a competitive advantage compared to other counties in the State because the County would be the only local jurisdiction to offer such a grant. The individual investor would receive the direct economic benefit with the local grant and State tax credit. The local cybersecurity company would receive an indirect economic benefit with the increase in outside investment to that company. Such an investment would help sustain the early stages of business development by providing necessary capital to that cybersecurity company. However, for investors who reside in the County, the


Economic Impact Statement
Bill 23-19, Cybersecurity Investment Tax Credit Supplement - Amendment

income tax credit could have a minimum negative fiscal impact on the County's income tax revenues.

4. If a Bill is likely to have no economic impact, why is that the case?

Bill 23-19 would have a net positive economic impact. Please see paragraph 3

5. The following contributed to or concurred with this analysis: David Platt, Laurie Boyer, and Peter McGinnity, Finance;



Michael Coveyou, Acting Director
Department of Finance

7/31/19

Date