

Article 9: Relating to Economic Development

Article 9 introduces new or amends existing economic development incentives. The changes include:

- **Professional Engineer License:** Expands eligibility for professional engineer licenses to include individuals who have an engineering technology degree and meet experience requirements.
- **Rebuild RI Tax Credit Program:** Raises the cap on the total amount of tax credits and sales tax exemptions that may be issued under the Rebuild RI program from \$210.0 million to \$240.0 million.
- **Reauthorization of Economic Development Incentive Programs:** Extends the sunset provisions on economic development incentive programs from June 30, 2021, to December 31, 2022.
- **Small Business Development Fund Changes:** Modifies the Small Business Development Fund (SBDF) program administered by the Rhode Island Commerce Corporation (CommerceRI).
- **Wavemaker Fellowship Program:** Clarifies elements of the Stay Invested in Rhode Island Wavemaker Fellowship program.

FISCAL IMPACT

The expansion of engineering license eligibility is estimated to generate an additional \$90,000 in general revenues in FY2022. The tax exemption changes related to the Wavemaker Fellowship program result in a \$2,707 revenue reduction in FY2022.

ANALYSIS AND BACKGROUND

Professional Engineer License

There are two types of degree programs in the engineering field, engineering and engineering technology. Currently, individuals with an undergraduate degree in engineering technology are not eligible for a professional engineer license unless they also hold a master's degree from an accredited engineering program. Engineering degrees are more heavily focused on math and science, whereas engineering technology degrees are more practical rather than theoretical. An engineering technology degree has less advanced math and science requirements. Currently, 24 states allow engineering technology degree holders to obtain a professional engineer license with adequate experience.

The article provides a licensure path for individuals with degrees in engineering technology, without also holding a master's degree, so long as they have a minimum of 8 years of experience working under a professional engineer licensee. Prospective licensees must also pass a Fundamentals in Engineering exam, and a Principles and Practice of Engineering Exam, both administered by the National Council of Examiners for Engineering and Surveying. Professional engineering license fees range from \$25 to \$300 (see table). The Department of Business Regulation anticipates eligibility changes will lead to an increase in license applications and fee collections, producing an estimated \$90,000 in additional revenue in FY2022.

Professional Engineer License Fees

License	Fee
PE Certificate of Registration – Initial Registration Fee	\$300
Biennial PE Registration - Renewal Fee	300
Reinstatement of Expired PE Certificate of Registration - Fee	210
COA Initial Application Fee	150
Comity PE Application Fee	150
Initial PE Application fee	100
Biennial COA Renewal Fee	50
Engineer in Training (“EIT”) – Initial or Comity Application Fee	25
Retirement Status – Biennial Fee	20

Rebuild Rhode Island Tax Credit Program

Rebuild RI uses both tax credit and sales tax exemption incentives to promote investment in real estate development for commercial and/or residential use across the State. When the Rebuild RI tax credit program was first established by the General Assembly in 2015, several program limits were instituted to prevent awarded credits from outpacing general revenues and to ensure program performance. These limits included a \$150.0 million cap on the total amount of credits permitted to be issued and an initial sunset date of December 31, 2018. The limits ensured that the General Assembly had an opportunity to evaluate the effectiveness of the program over time and, based on its analysis, either reauthorize or curtail the program. The issuance of sales tax exemptions however, was not originally capped.

Additional limits have since been placed on the program. In 2019, the General Assembly modified the total program cap by increasing it from \$150.0 million to \$210.0 million. However, the cap now applies to the combined total of tax credits and sales tax exemptions. The program also has a \$15.0 million per-project cap. The General Assembly also modified this cap as it related to the potential Fane Tower project in the I-195 Redevelopment District. In this instance, the cap was raised to \$25.0 million, including credits and exemptions. The project also does not count against the overall program cap. The sunset date for Rebuild RI has been extended three times, most recently to June 30, 2021.

Since the program's inception, Commerce has awarded \$147.5 million in Rebuild RI tax credits and \$44.7 million in sales tax exemptions across 53 projects, for a combined total of \$192.2 million, or 92.5 percent of the current \$210.0 million program cap.

Article 9 increases the program cap to \$240.0 million and extends the Rebuild RI sunset from June 30, 2021, to December 31, 2022.

Reauthorization of Economic Development Incentive Programs

Article 9 reauthorizes the following incentives for another year and a half:

- Rebuild RI
- Rhode Island Tax Increment Financing
- Tax Stabilization Incentive
- First Wave Closing Fund
- I-195 Redevelopment Project Fund
- Small Business Assistance Fund
- Main Street Rhode Island Streetscape Improvement Fund
- Innovation Initiative
- Industry Cluster Grants
- High School, College, and Employer Partnerships
- Air Service Development Fund
- Rhode Island Qualified Jobs Incentive

These programs are currently set to expire on June 30, 2021. The General Assembly originally established a two-year authorization for these incentives, calling for a sunset date of December 31, 2018. This expiration has been extended three times, most recently by the FY2021 Budget as Enacted. Article 9 extends the date to December 31, 2022.

Small Business Development Fund Changes

The Small Business Development Fund (SBDF) program is an economic development tool specifically aimed at providing financing to small businesses. The program involves the creation of multiple private capital funds designed to invest in small, Rhode Island-based businesses. Investors are incentivized to participate through State-issued tax credits. Credits cannot be redeemed for three years and are capped at \$42.0 million, with no one fund receiving more than \$20.0 million. Funding is targeted at the gap in financing that exists for many small businesses and start-ups. The program is administered by the Rhode Island Commerce Corporation (Commerce). The Budget does not have a fiscal impact in FY2022 and will not until three years after the first SBDF is awarded and meets program criteria.

Analyst Note: The State has not estimated the potential economic impact of the program. In testimony before the Senate Finance Committee in January 2019, Enhanced Capital's hired economic consultant, the Economic Impact Group, estimated that the full \$42.0 million in tax credit revenue loss would be realized by FY2026 (\$14.0 million per year from FY2024-FY2026). Cumulative new revenue from SBDF-related job creation and retention and small businesses development was estimated to reach \$74.6 million by FY2026 and continue to grow to \$151.0 million by FY2030.

Program Elements: The Small Business Development Fund program model includes the following features:

- **Fund Approval:** Investment companies apply to Commerce for authorization to form a Rhode Island Small Business Development Fund (SBDF). Applicants have to meet certain federal and State criteria in order to qualify, including being a federally-licensed Small Business Investment Company (SBIC) or a Rural Business Investment Company (RBIC).
- **Raising Capital:** Once approved, fund managers are awarded the authority to raise money for their designated SBDF. Private investors provide capital to the funds in exchange for investment returns. A portion of these returns come from delayed, at-risk State tax credits. The program requires that at least 45.0 percent of the capital raised comes from sources other than the investor awarded the tax credit. SBDF fund managers must provide at least 10.0 percent.
- **Capital Investment:** Commerce is permitted to authorize up to \$65.0 million in capital investments, with no more than \$20.0 million to any one SBDF. These funds must be invested in small, Rhode Island-based businesses within three years.
 - Small businesses are defined as those with fewer than 250 employees and less than \$15.0 million in net income.
 - The businesses must be within one of the State's target growth sectors.
 - Investments may take the form of debt or equity.
- **Tax Credit Incentive:** Upon making an investment in a SBDF, an investor earns a vested right to a non-transferable credit against the investor's State insurance premium tax liability. The credit is equal to the applicable percentage for the credit allowance date multiplied by the purchase price paid to the small business fund for the capital investment. The credit may not be taken within the first three years or prior to the deployment of 100.0 percent of a fund's capital. The aggregate number of credits that can be claimed per year is capped at approximately \$14.0 million per year. Credits may only be carried forward seven years.
- **Accountability and Claw-backs:** The SBDF includes several precautions to protect the State's investment and ensure accountability. Commerce may recapture credits from any fund manager that:
 - Does not invest 100.0 percent of its capital within the first three years of the first credit allowance.
 - Fails to maintain all its qualified investments for six years after the first credit allowance.

- Makes a payout to investors that result in less than 100.0 percent of the authorized capital being deployed in its qualified investments.
- Fails to make at least 10.0 percent of its qualified investments in minority business enterprises.
- Invests in an entity that is itself a SBDF.

If the number of jobs created or retained by a business receiving a qualified investment from a SBDF is less than 60.0 percent of the projected amount agreed on in the SBDF's plan approved by Commerce, then at the time of exiting the program, the State shall receive 30.0 percent of any distribution or payment to SBDF investors. If the number of jobs is greater than 60.0 percent but less than 100.0 percent, then the State shall receive 15.0 percent. Each SBDF is required file an annual report on its investments and the number of jobs created or retained to Commerce for the first three years.

Program Implementation: The General Assembly authorized the SBDF program in 2019. The implementation of the program since then has experienced challenges.

- **Applications and Rulemaking:** Article 12 of the FY2019 Budget as Enacted required that Commerce begin taking applications from potential SBDF managers 90 days after July 5, 2019, or October 3, 2019.

At its September 16, 2019, board of directors meeting, Commerce board members expressed concerns over the lack of guardrails and taxpayer protections for the program. Commerce staff was authorized to draft expedited, emergency regulations prior to the planned October 3 deadline, which were adopted in September. The regulations included:

- Augmenting the statutory application provisions to require sufficient information for Commerce to fully vet applicants;
- Enhancing the requirements for the applicant's business plan and proof of investment history;
- Authorizing the Commerce Board to approve fund applications (the statute does not provide for this, rather applicants who meet the criteria are automatically approved on a first-come-first-served basis);
- Proposing a reduction of the tax credit allocation in those instances where a SBDF investment fails to result in a positive economic impact to the State or if an SBDF breaches the covenants within the business plan;
- Creating various reporting requirements in addition to those provided for in the statute;
- Incorporating elements designed to prevent SBDFs from exiting before the promised outcomes and returns to the State are realized;
- Permitting Commerce the option to retain the authority to approve individual business applications to a fund.

In October 2019, three investment companies submitted applications to Commerce: Advantage Capital, Enhanced Capital, and Stonehenge Capital. During the review period, Commerce staff made a determination that none of the applications were complete and notified applicants on October 30, 2019, that they had 15 days to submit additional information or the applications would not be certified. Each of the applicants submitted an updated application response on October 31, 2019; however, these responses were also deemed incomplete. At Commerce's December 20, 2019, board of directors meeting, the applications were formally denied. In February 2020, Commerce held public hearings on formal rules for the program and promulgated final rules.

- **Pandemic Recovery:** With the onset of the coronavirus pandemic and its devastating impact on the Rhode Island economy, Commerce revisited the SBDF program with the intent of utilizing it as an economic recovery tool for small businesses. From March through July 2020, Commerce engaged in

negotiations with Enhanced Capital that resulted in the latter being approved on July 16, 2020, to form an SBDF, being awarded \$20.0 million in tax credits, and authorized to begin lending \$20.0 million to Rhode Island businesses.

The terms of the agreement required Enhanced Capital to invest 75.0 percent of the funds in certain coronavirus affected businesses that could show a 33.0 percent of revenues from January to May 2020 compared with the same period in 2019. Loans must be for a minimum period of five years with a 0.0 percent interest rate for the first six months. After the first six months, interest is capped at 5.0 percent for two years, and 8.0 percent until maturity. The agreement also included additional claw-back measures and a series of penalties in the event that the firm fails to meet certain thresholds. According to Enhanced Capital, the firm made loans to approximately 50 companies, in amounts ranging from \$10,000 to \$1.0 million.

Article 9 Changes: Article 9 modifies the small business development fund program as follows:

- **Eligibility:** The article expands the types of eligible applicants to include mission-oriented community financial institutions. These would include community development financial institutions, minority depository institutions, certified development companies, microloan intermediaries, or organizations with demonstrated experience in making capital investments in small businesses. According to Commerce, these community financial institutions are primary vehicles for federal pandemic business assistance and relief and Rhode Island has several that are locally-based. To date only, one entity has been approved to create an SBDF and it is based in Louisiana.
- **Application and Selections Process:** The article modifies the process for reviewing and approving applications. It eliminates the mandated \$5,000 application fee and authorizes Commerce to set the fee by regulation. Commerce is granted the discretion to impose additional application requirements that it deems appropriate. Under current law, any eligible applicant that meets the statutory criteria and submits a timely application is automatically eligible to create a SBDF and receive tax credits. Article 9 eliminates these automatic provisions and provides Commerce with the authority establish the application process, the discretion to approve or deny applications, and the discretion to determine the level of tax credits to be awarded.
- **Financing and Tax Credits:** Under current law, credits under the program may only be used against a State insurance premium tax liability. Article 9 expands the types of taxes to which the tax credits can apply to include business corporations taxes, public service corporations taxes, bank deposit taxes, and personal income taxes. Article 9 also eliminates the current prohibition against the credits being transferred, conveyed, or sold and provides Commerce with the ability to recapture credits that have been fraudulently transferred without notice. Lastly, the article eliminates the requirement that at least 10.0 percent of any SBDF be capitalized by the fund managers.
- **Rules and Regulations:** Article 9 authorizes Commerce to promulgate rules and regulations for the SBDF program, an element currently not codified.

Wavemaker Fellowship Program

Established in 2015, the Wavemaker Fellowship is a competitive student loan reimbursement program for college and university graduates who take employment in science, technology, engineering, and mathematics (STEM) fields in Rhode Island. The program provides Wavemaker Fellows with refundable personal income tax credits that can be used to offset their annual student loan payments for up to 4 years. The amount of the tax credit depends upon the degree earned by the taxpayer, i.e. \$1,000 for an associate's degree up to \$6,000 for a graduate or post-graduate degree.

Article 9 Changes: Article 9 clarifies several aspects of the program and aligns the statute with current practices.

- **Employment:** To be eligible for a Wavemaker Fellowship under current law, an individual must be a full-time employee who works in one or more of the following covered fields: life, natural or environmental sciences; computer, information or software technology; advanced mathematics or finance; engineering; industrial design or other commercially related design field; or medicine or medical device technology. A full-time employee under the program is defined in statute as a person who is employed by a business for consideration for a minimum of at least 35 hours per week. What constitutes a business, for purposes of the program, is not currently defined in statute. Article 9 provides for an expansive definition that includes corporations, banks and other financial institutions, limited liability companies, partnerships, sole proprietorships, or federal agencies or their subsidiaries. This more expansive definition permits entrepreneurs and self-employed individuals to be eligible for the program.
- **Tax Exemption:** Article 9 further clarifies that all tax credit awards made to fellows under the program are exempt from all State taxes. For purposes of the Wavemaker Fellowship program, awards may be delivered as an up-front tax credit redemption or as a tax credit certificate when filing a tax return. State law exempts up-front redemptions from State taxation; however, tax credit certificates are still subject to tax. Article 9 exempts the latter from taxation. This policy change results in a general revenue reduction of \$2,707 in FY2022.
- **Tax Credit Amount:** Under current law, tax credits cannot exceed 100.0 percent of the education loan repayment expenses “incurred” by a fellow. Article 9 amends “incurred” to read “paid”, making it clear that the fellow is in fact the individual paying the loan, not some other entity.