

Office of Policy and Legal Analysis

Date: March 31, 2021
To: Joint Standing Committee on Innovation, Development, Economic Advancement and Business
From: Rachel Olson, Legislative Analyst
Re: [LD 730](#), An Act To Protect Economic Competitiveness in Maine by Extending the End Date for Pine Tree Development Zone Benefits” (Daughtry)

Bill Summary

This bill changes the date after which a qualified Pine Tree Development Zone business in a tier 1 location may not be certified from December 31, 2021 to December 31, 2024. It also changes the date that all Pine Tree Development Zone benefits are terminated from December 31, 2031 to December 31, 2034 and makes corresponding changes in several sections of law.

Testimony:

Proponents: Senator Daughtry, sponsor; Charlotte Mace, Office of Business Development, DECD; Peter DelGreco, Maine & Co.; Linda Caprara, Maine State Chamber of Commerce; Brian Boland, ND Paper; Patrick Strauch, Maine Forest Products Council;

Opponents: Sarah Austin, Maine Center for Economic Policy;

Neither For Nor Against: None

Information/Requests:

- The PTDZ Program was established in 2003. It includes 10 different benefits and is administered by DECD, with specific program benefits administered by MRS, the PUC and Efficiency Maine Trust. Participating businesses that create at least one new, quality job in Maine receive a number of tax and cost reductions. Businesses must be for-profit and engaged in qualified business activity in one of the program’s targeted sectors. They must also provide employees a retirement plan, group health insurance and salaries in excess of program minimums. Finally, they are also required to provide a signed statement certifying that they would not go forward with their expansion or location project in Maine absent the program’s benefits – commonly referred to as the “but for” requirement.¹
- Requests for specific data related to the programs use and effectiveness were made.

While most data shared during the public hearing was anecdotal, some data related to enrolled business, wages, and investment was provided. DECD provided the following information after the public hearing:

- [CY 2019 Legislative Report \(Qualified Businesses and Benefits Received by PTDZ Businesses\)](#)
- [Pine Tree Development Zone 2019 Data](#)
- [Pine Tree MRS Annual Report \(10.17.19\)](#)

¹ “Pine Tree Development Zones - A Limited Scope Review,” Pine Tree Development Zones - A Limited Scope Review (2020), <http://legislature.maine.gov/doc/1809>, 2.

- What types of similar programs exist in other states? Are they successful?

Many states have tax incentive programs that are focused on job creation and job retention. I was not able to compile evidence to determine whether the programs are successful, but it does appear that there is a growing trend of states requiring regular evaluation of tax incentive programs in order to inform policy decisions.² A few examples of tax incentive programs with similar, but not the same, goals include³:

- Iowa High Quality Jobs Program
- Maryland Business that Create New Jobs Tax Credit
- Missouri Works Program
- GrowNJ assistance Program

- [OPEGA Pine Tree Development Zone Evaluation Report \(2017\)](#)

The 127th Legislature’s Government Oversight Committee directed OPEGA to review the PTDZ Program. In conducting the review, it was determined that many of the evaluation questions could not be answered due to a shortage of readily available program data. Given that at that time the PTDZ was set to sunset in 2018, the decision was made to not pursue obtaining that data, which would have required significant time for OPEGA, DECD, MRS, and business participants. Therefore, answers to whether or not those benefitting from the tax expenditures were those who were intended to benefit, the extent to which the program achieved its purposes/goals, the effectiveness of the program compared to similar programs or the absence of a program, and the cost-effectiveness of resources went unanswered. OPEGA did analyze the design and administration, as well as what data was available. The review offered four recommendations:

- Program outcomes should be fully assessed and design weaknesses should be addressed if there is legislative interest in extending PTDZ.
- MRS should include enhanced information about PTDZ benefits in future biennial tax expenditure reports to improve transparency.
- DECD should notify all entities that administer PTDZ benefits when a business is decertified.
- Additional data should be captured and/or made more accessible if the Legislature desires full analysis of PTDZ costs and outcomes.⁴

- [OPEGA Pine Tree Development Zone Limited Scope Review \(2020\)](#)

In August 2019, the Government Oversight Committee directed OPEGA to conduct a limited scope review of PTDZ in order to provide the Legislature with additional information about the program prior to the program’s newly established date to stop accepting new applicants – December 31,

² Goodman, Josh. “States Improved Tax Incentive Evaluations in 2018.” The Pew Charitable Trusts, March 18, 2019. <https://www.pewtrusts.org/en/research-and-analysis/articles/2019/03/18/states-improved-tax-incentive-evaluations-in-2018>.

³ This information came from the NCSL State Tax Incentive Evaluations Database. It represents a cursory review of some of the states included in the database. This database represents only states that have evaluations of these programs available, and therefore will not necessarily include every state program. You can access the database at: <https://www.ncsl.org/research/fiscal-policy/state-tax-incentive-evaluations-database.aspx>

⁴ “Pine Tree Development Zones - Tax Expenditure Review,” Pine Tree Development Zones - Tax Expenditure Review (2017), <http://legislature.maine.gov/doc/1809>.

2021 a result of [PL 2017, c. 440 \(LD 1654\)](#), which took effect July of 2018. The bill also made the following changes:

- stated the goals of the program – job creation and retention (eliminated two others, which were identified as potentially being too broad)
- Established new certification requirements (DECD issues a certificate of qualification once the Commissioner has verified that the business has added at least one qualifying employee)
- Required new data to be gathered from PTDZ participants annually (Businesses must report annually the number of new PTDZ qualifying employees hired within the year and estimated aggregate PTDZ benefits received or claimed that year)
- DECD did begin collecting this new data in the spring of 2019. DECD also began implementing a new database to streamline data collection and make reporting more efficient, but the budgetary impacts of the coronavirus pandemic have significantly delayed implementation. DECD spoke about this briefly during the public hearing.
- [Amended the “but for” requirement](#), requiring it to be notarized.
- Increased PTDZ reporting to the Legislature. The law requires DECD to report annually to the Legislature the names of PTDZ businesses, aggregate benefits received for the year, and aggregate information for the three most recent report years on:
 - employee levels,
 - salary and wage information, including benefits, and
 - amount of qualified investments.

The biennial budget bill of the 129th Legislature also included language authorizing the acquisition, use, etc. of computer hardware and software to support the operations of the tax collection system, which would allow MRS to track some of the PTDZ data.

The limited scope review reached the following conclusions:

- Since 2017, the Legislature has made significant changes in the PTDZ program including clarification of the program’s goals.
- PTDZ’s clarified goals focus on creation and retention of quality jobs as the program’s ultimate goal.
- The amended design of PTDZ ensures that benefits will mostly be provided only to businesses that create and retain at least one quality job and requires notarization of “but for” statements filed by applicants. However, these amendments do not guarantee that PTDZ is actually resulting in more quality job creation and retention than would have happened without the program.
- Proactive program management could support strengthened oversight and help ensure PTDZ is effective.
- While generally in line with the overarching goals of Maine’s Statewide Strategic Plan, PTDZ does not speak to the specific actions outlined in the Plan.
- The report expected from Maine’s Economic Recovery Committee in December 2020 may shed more light on PTDZ’s role in the economic recovery following the COVID-19 pandemic.⁵

⁵ “Pine Tree Development Zones - A Limited Scope Review,” Pine Tree Development Zones - A Limited Scope Review (2020), <http://legislature.maine.gov/doc/1809>.

Additional Information:

- [DECD – PTDZ Website](#)
- [MRS – PTDZ Website](#)
- [PTDZ Tax Credit Guidance Document](#)
- [PTDZ Sales and Use Tax Bulletin](#)
- [LD 1654](#), An Act To Protect Economic Competitiveness in Maine by Extending the End Date for Pine Tree Development Zone Benefits and Making Other Changes to the Program
 - This law extended the duration of the PTDZ program – moving the date on which the program would stop accepting new applicants from December 31, 2018 to December 31, 2021. It also made changes to PTDZ, including enactment of new public policy objectives, or goals, for the program. ([PL 2017, c. 440](#)).

Possible Amendments: While the possibility of amendments was discussed related to identified flaws in design and implementation following OPEGA reports in 2017 and 2020, no specific amendments were put forward during the work session. The idea of a review of changes and comprehensive work based on changes to the program from the 128th and 129th Legislatures and a report was suggested.

Other Considerations: The ETIF (Employment Tax Increment Financing) program was mentioned during the public hearing and in both the 2017 and 2020 OPEGA reviews. According to the [OPEGA 2017 PTDZ Review](#), both DECD staff and stakeholders report that the expanded ETIF benefit is the most valuable and most use PTDZ benefit. Nearly all businesses certified under the PTDZ Program use the ETIF benefit, and nearly all those receiving ETIF benefits are PTDZ certified.⁶ Therefore, it should be noted that “if certifications under PTDZ cease after 2021 without changes to either PTDZ or ETIF statutes, the 80% ETIF benefit rate would phase out as existing PTDZ certifications expired (after 19 years), and the differentiated benefit rates in ETIF statute would become effective again.”⁷

Fiscal Impact: Fiscal status not yet determined.

Links to Referenced Statutes in Bill Text:

- 30-A (Municipalities and Counties, Development Districts)**
 - [§5250-J. Pine Tree Development Zones](#)
- 35-A (Public Utilities)**
 - [§3210-E. Electric utility and conservation benefits](#)
- 36 (Taxation, sales and use tax)**
 - [§1760. Exemptions](#)
 - [§2016. Pine Tree Development Zone businesses; reimbursement of certain taxes](#)
- 36 (Taxation, business taxes)**
 - [§2529. Pine Tree Development Zone tax credit](#)
- 36 (Taxation, Income Taxes)**
 - [§5219-W. Pine Tree Development Zone tax credit](#)
- 36 (Taxation, Taxpayer Benefit Programs, Employment Tax Increment Financing)**
 - [§6754. Reimbursement allowed](#)

⁶ “Pine Tree Development Zones - A Limited Scope Review,” Pine Tree Development Zones - A Limited Scope Review (2020), <http://legislature.maine.gov/doc/1809>, 30.

⁷ “Employment Tax Increment Financing - An Evaluation of Program Design and Analysis of Program Activity from 2010 through 2016,” Employment Tax Increment Financing - An Evaluation of Program Design and Analysis of Program Activity from 2010 through 2016 § (2019), <http://legislature.maine.gov/doc/2658>, 5.