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HOUSE BILL NO. 1164

Offered January 14, 2004

Prefiled January 14, 2004

A BILL to amend the Code of Virginia by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12:1, relating to teleworking tax credit.

Patron—Frederick

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12:1 as follows:

§ 58.1-439.12:1. Teleworking tax credit.

A. As used in this section:

"Commissioner" means the chief executive officer of the Department of Transportation or his delegate.

"Eligible costs" means expenditures for equipment, telecommunications services, and any other reasonable costs that enable an employee to telework.

"Qualified employer" means an employer in any region of the Commonwealth, which has not attained federal air pollution limits as of January 1, 2004.

"Telework" or "teleworking" means enabling an employee to perform job functions normally executed in the workplace from the employee's residence, or from a teleworking center in accordance with guidelines provided under subsection G.

B. For the taxable year beginning on or after January 1, 2005, a qualified employer shall be allowed a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.) and 10 (§ 58.1-400 et seq.) of Chapter 3; Chapter 12 (§ 58.1-1200 et seq.); Article 1 (§ 58.1-2500 et seq.) of Chapter 25; or Article 2 (§ 58.1-2620) of Chapter 26 of this title, as set forth in this section.

C. A qualified employer shall be allowed a credit for eligible costs incurred to provide an employee with the ability to telework. The credit shall be equal to 75 percent of the costs of the initial setup to enable teleworking for an employee who teleworks five or more days per week. If the employee teleworks less than five days per week, the amount of the credit shall be reduced in accordance with guidelines provided under subsection G.

D. The credit provided under this section shall not exceed \$1,000 per employee annually. The credit shall be inapplicable for employees whose job function requires that the majority of their duties be performed outside of the workplace.

E. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation) or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

F. The amount of credit allowed pursuant to this section shall not exceed the tax imposed for such taxable year. Any credit not usable for the taxable year in which it is allowed may be, to the extent usable, carried over for the next five succeeding taxable years. No credit shall be carried back to a preceding taxable year.

G. The Commissioner, in consultation with the Tax Commissioner and the Secretary of Technology, shall issue guidelines further defining eligible costs, initial setup, teleworking locations, and job functions. In preparing such guidelines, the Commissioner, the Tax Commissioner and the Secretary shall not be subject to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but shall conduct a public hearing prior to issuing such guidelines.

H. The credit provided under this section shall be allowed only if the Commissioner approves an employer's application for credit and certifies to the Department of Taxation that the employer is a "qualified employer." Subject to the limitations contained in subsection C, applications to make use of the credit set forth in this section submitted to the Commissioner shall be considered in the order received.

INTRODUCED

HB1164