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SENATE BILL NO. 657

Offered January 20, 2010

A BILL to amend the Code of Virginia by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12:03, relating to tax credits for renewable energy products.

Patron—Ruff

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 58.1-439.12:03 as follows:

§ 58.1-439.12:03. Renewable energy products tax credit.

A. For purposes of this section:

"Base year export volume" means the number of renewable energy products manufactured by a corporation, which renewable energy products were also exported by such manufacturer during its taxable year beginning in calendar year 2010.

"Current year export volume" means the number of renewable energy products manufactured by a corporation, which renewable energy products were also exported by such manufacturer in the taxable year for which credit under this section is claimed. The term shall only apply for taxable years beginning on and after January 1, 2010.

"Exported" or "exports" means the shipment of renewable energy products to a foreign country.

"Manufactured" or "manufactures" means manufactured in the Commonwealth.

"Renewable energy products" means any equipment, devices, or fuel sources designed and used primarily for the production of renewable energy, as that term is defined in § 56-576.

B. For taxable years beginning on and after January 1, 2011, but before January 1, 2016, any corporation that manufactures renewable energy products in Virginia at a manufacturing facility that begins production of such renewable energy products on or after January 1, 2011, which renewable energy products are exported by such manufacturer, shall be allowed a credit against the tax imposed by § 58.1-400 for such renewable energy products as follows:

1. If the current year export volume of the corporation is less than 50 percent of the base year export volume for the corporation, no credit shall be allowed for the taxable year.

2. If the current year export volume of the corporation is at least 50 percent but less than 60 percent of the base year export volume for the corporation, the credit allowed shall equal \$0.20 per ton of renewable energy products of the current year export volume.

3. If the current year export volume of the corporation is at least 60 percent but less than 80 percent of the base year export volume for the corporation, the credit allowed shall equal \$0.25 per ton of renewable energy products of the current year export volume.

4. If the current year export volume of the corporation is at least 80 percent but less than 100 percent of the base year export volume for the corporation, the credit allowed shall equal \$0.30 per ton of renewable energy products of the current year export volume.

5. If the current year export volume of the corporation is at least 100 percent but less than 120 percent of the base year export volume for the corporation, the credit allowed shall equal \$0.35 per ton of renewable energy products of the current year export volume.

6. If the current year export volume of the corporation is at least 120 percent of the base year export volume for the corporation, the credit allowed shall equal \$0.40 per ton of renewable energy products of the current year export volume.

C. In no event shall the credit allowed under this section for any taxable year to any corporation exceed the lesser of \$6 million or 50 percent of the corporation's income tax liability to the Commonwealth for such taxable year.

D. The total amount of tax credits granted under this section for each fiscal year of the Commonwealth shall not exceed \$6 million. A corporation meeting the requirements of this section shall be eligible to receive a tax credit to the extent the corporation reserves such tax credit through the Department as provided herein.

The Department shall establish policies and procedures for the reservation of tax credits by eligible corporations. Such policies and procedures shall provide (i) requirements for applying for reservations of tax credits; (ii) a system for allocating the available amount of tax credits among eligible corporations; (iii) a method for the issuance of reservations to eligible corporations that did not initially receive a reservation in any year, if the Department determines that tax credit reservations were issued

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59 *to other corporations that did not use, or were determined to be wholly or partially ineligible for, a*
60 *reserved tax credit; and (iv) a procedure for the cancellation and reallocation of tax credit reservations*
61 *allocated to eligible corporations that, after reserving tax credits, have been determined to be ineligible*
62 *for all or a portion of the tax credits reserved. In no case shall a corporation be allowed to carry over*
63 *any tax credit to be applied against any income tax for taxable years subsequent to the taxable year of*
64 *export.*

65 *Actions of the Department relating to the approval or denial of applications for reservations for tax*
66 *credits pursuant to this section shall be exempt from the provisions of the Administrative Process Act*
67 *(§ 2.2-4000 et seq.).*

68 *E. A corporation claiming the credit under this section for a taxable year shall submit with its*
69 *application for reservation of tax credits and its state income tax return a written statement certifying its*
70 *base year export volume and current year export volume. It shall also submit, with such application and*
71 *return, a listing of its export volumes as reported on its monthly reports to the United States*
72 *Department of the Treasury for each month of the taxable year and a listing for each month of the*
73 *taxable year of its export volumes.*
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