DEPARTMENT OF TAXATION
2010 Fiscal Impact Statement

1. Patron William R. Janis

2. Bill Number HB 237

House of Origin:
X **Introduced**
_____ **Substitute**
_____ **Engrossed**

Second House:
_____ **In Committee**
_____ **Substitute**
_____ **Enrolled**

3. Committee House Finance

4. Title Income Tax: Job Creation Tax Credit

5. Summary/Purpose:

This bill would provide a one-time individual income tax credit to individuals, partnerships and limited liability companies that create at least 10 new positions in the Commonwealth, and fill them for at least 24 consecutive months prior to the taxable year for which the credit is claimed. The amount of the credit would be equal to 10 percent of the gross annual income of the person or entity creating the jobs. This bill would also provide that any unused amount of the tax credit may be carried forward for five taxable years.

This bill would be effective for taxable years beginning on and after January 1, 2010.

6. Fiscal Impact Estimates are: Preliminary. (See Line 8.)

7. Budget amendment necessary: No.

8. Fiscal implications:

Administrative Costs

TAX has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, TAX considers implementation of this bill as “routine,” and does not require additional funding.

TAX will provide specific administrative costs on any legislation that is not “routine.” Additionally, TAX will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, TAX will identify the costs at that time.

Revenue Impact

This bill would have an unknown, but potentially significant, negative revenue impact beginning in FY 2014. TAX does not currently have data available to identify the income of businesses that could potentially qualify for this credit. However, as this credit would be nearly twice the amount of the income tax of the taxpayer, those receiving this credit would not pay income tax for nearly two years.

In order to qualify for the tax credit, a business would be required to create and fill at least ten jobs on or after January 1, 2010. Once the jobs are created, all ten jobs must be filled for 24 consecutive months prior to the taxable year for which the credit is claimed. For this reason, the earliest that the credit could be claimed would be on a Taxable Year 2013 return filed during FY 2014.

To the extent that this credit incentivizes businesses to create jobs that they would not have otherwise created, there would be an unknown offsetting impact. This positive impact would be the result of taxes paid by employers and employees.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: Yes.

In order to clarify what type of income the credit would be based upon, the following technical amendment is suggested:

Page 1, Line 17, after individual's
Strike: , limited liability company's, or partnership's gross annual income,
Insert: Virginia adjusted gross income or the limited liability company's or partnership's taxable income attributable to the Virginia business that created and filled the qualifying new positions,

11. Other comments:

Proposed Legislation

This bill would provide a one-time income tax credit to individuals, partnerships and limited liability companies that create at least 10 new positions in the Commonwealth, and fill them for at least 24 consecutive months prior to the taxable year for which the credit is claimed. The amount of the credit would be equal to 10% of the gross annual income of the person or entity creating the jobs.

This bill would not require the employer to claim the tax credit in the first year it is available. Therefore, the person or entity could hold the credit and apply it to a particularly profitable year and then claim a credit based on 10 percent of that income. In addition, any unused amount of the tax credit may be carried forward for five taxable years.

Under this bill, the 24 consecutive month process would commence once the tenth position is filled. If, during this time frame, any of the required positions were to become vacant, for any reason, requiring the employer to re-fill the position, then the employer would be required to restart the 24 consecutive month process at zero months.

The examples below illustrate TAX's interpretations of the provisions of this bill.

> Example 1. An LLC creates and fills 10 new positions in 2010. The positions remain filled for 24 consecutive months. The LLC may claim the credit against the 2013 income tax, on the return to be filed in 2014.
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> Example 2. An LLC creates and fills five new positions in 2010, and five new positions by December 2011. All ten positions then remain filled for 24 consecutive months. The LLC may claim the credit against the 2014 income tax, on the return to be filed in 2015.
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> Example 3. A partnership creates and fills 10 new positions in 2010. In January 2012 one of the new positions becomes vacant, and the partnership re-fills the position in December 2012. All ten positions then remain filled for 24 consecutive months. The partnership would be allowed to claim the credit against the 2015 income tax, on the return to be filed in 2016.

This bill would also provide that the amount of any credit attributable to job creation and hiring by a partnership or limited liability company would be allocated to the individual partners or members, in proportion to their ownership interests.

This bill would be effective for taxable years beginning on and after January 1, 2010.

Other Legislation

House Bill 624 and Senate Bill 472 would change the tax credit amounts allowed under the Major Business Facility Job Tax Credit from $1,000 to $2,000 per qualified full-time employee, and reduce the number of qualified full-time jobs that would need to be created to earn the credit from 100 to 50. They would also reduce the number of qualified full-time jobs needed to qualify in an economically distressed area or enterprise zone from 50 to 25.

House Bill 803 and Senate Bill 623 would allow a corporate income tax credit for each new "green job" that is created and maintained in Virginia by the taxpayer.

House Bill 853 and House Bill 1091 would reduce the reduced number of qualified full-time jobs needed to qualify for a Major Business Facility Job Tax Credit in economically distressed areas from 50 to 25.

Senate Bill 143 would allow an income tax credit for each "Renewable Energy Job" created. The amount of the credit would be limited to $1,000 for each salary of $50,000 and more.

cc : Secretary of Finance

Date: 2/5/2010 TG
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