

DEPARTMENT OF TAXATION

2010 Fiscal Impact Statement

1. **Patron** Charles D. Poindexter

2. **Bill Number** HB 803

House of Origin:

 Introduced

 Substitute

 Engrossed

3. **Committee** Passed by House and Senate

4. **Title** Income Tax: Green Jobs Tax Credit

Second House:

 In Committee

 Substitute

 X **Enrolled**

5. **Summary/Purpose:**

This bill would allow a corporate and individual income tax credit for each new “green job” that is created in Virginia by the taxpayer. The amount of the credit would be \$500 for each position that is created and that has an annual salary of \$50,000 or more. The tax credit would be allowed in the first taxable year in which the job had been filled for at least one year, and for the four succeeding taxable years in which the job is continuously filled. The tax credit would be allowed for up to 350 green jobs per taxpayer.

This bill would allow any unused credits to be carried over for five taxable years. Any taxpayer that is allowed a green jobs tax credit would still be allowed to qualify for benefits under the Enterprise Zone Grant Program. The taxpayer would not, however, be allowed to claim a Major Business Facility Jobs Tax Credit or a federal tax credit for investments in clean energy manufacturing facilities that fosters job creation for the creation of the same job.

This bill would be effective for taxable years beginning on or after January 1, 2010, but before January 1, 2015.

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

7. **Budget amendment necessary:** No.

8. **Fiscal implications:**

Administrative Costs

TAX considers implementation of this bill as “routine,” and does not require additional funding.

Revenue Impact

This bill would have an unknown revenue impact. There is no reliable data available on the number of jobs in Virginia which will be created and qualify for the credit, or the current level of “green employment.” The revenue impact will also depend on how broadly a “green job” will be defined by the Secretary of Commerce and Trade, who is charged with determining a list of jobs that qualify for the credit.

However, to the extent that this new credit incentivizes companies 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. Assuming that any jobs created by the incentive offered by this bill would be "new" jobs and not jobs that are filled by individuals already employed in the Commonwealth, the following examples may be used to estimate the direct potential positive revenue impact from taxes paid by the new employees:

Example 1: Company A hires 75 new “green” Virginia employees in calendar year 2010. Each employee receives a salary of \$50,000. Company A would qualify for a credit of \$37,500 in the initial year and then for the four succeeding years if the jobs are continuously filled. If each employee is paid an annual salary of \$50,000, according to the Virginia Economic Development Partnership, they would pay an estimated \$2,785 per year in individual income and state retail sales tax.

Example 2: Company B hires 100 new “green” Virginia employees in calendar year 2010. Each employee receives a salary of \$100,000. Company B would qualify for a credit of \$50,000 in the initial year and then for the four succeeding years if the jobs are continuously filled. If each employee is paid an annual salary of \$100,000, according to the Virginia Economic Development Partnership, they would pay an estimated \$6,455 per year in individual income and state retail sales tax.

It is not known how such employment gains might interact or be included in the economic growth assumptions already built into the state's revenue forecasts.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Federal Tax Credit

The American Recovery and Reinvestment Act (the “Act”) includes a tax credit for investments in manufacturing facilities for clean energy technologies as a way to foster investment and job creation in clean energy manufacturing. The Act allows a credit equal to 30% of the investments made to facilities that manufacture clean energy, capped at \$2.3 billion.

Currently, there are 183 manufacturing facilities for clean energy products across 43 states that have been approved for the credit. The tax credits were allocated on a competitive basis, and were approved based on the following criteria: commercial viability, domestic job creation, technological innovation, speed to project completion, and potential for reducing air pollution and greenhouse gas emissions. The Department of Energy also considered additional factors including diversity of geography, technology and project size, and regional economic development.

Other States

In 2008, the Commonwealth of Massachusetts created a “green jobs” program to support and develop a clean energy industry. Under the “Green Jobs Act”, the Massachusetts Clean Energy Technology Center was created to administer the new the Massachusetts Alternative and Clean Energy Fund. The Fund is used to invest in clean energy technology research and issue seed grants to companies, universities and nonprofits to encourage the creation of clean technology ventures and the training of workers to perform associated green jobs.

Major Business Facility Jobs Tax Credit

Individuals, estates, trusts, corporations, banks, and insurance companies may claim a Virginia tax credit if the taxpayer creates at least 100 new full-time jobs in connection with the establishment or expansion of a major business facility, and the company is engaged in a qualifying industry in Virginia. If a taxpayer is located in an enterprise zone or in an economically distressed area (as defined by the Virginia Economic Development Partnership), the threshold is reduced from 100 to 50. Credits will be recaptured proportionately if employment decreases during the five years following the initial credit year.

This nonrefundable credit is equal to \$1,000 per each qualifying new job in excess of the 100/50 job threshold and is spread over three years. The credit only applies to facilities where an announcement to expand or establish such a facility was made on or after January 1, 1994.

The credit must be claimed ratably over three taxable years, beginning with the taxable year following the year in which the facility is established or expanded, or the new qualifying jobs are added. Unused credits may be carried forward for the next ten taxable years.

Effective for taxable years beginning on January 1, 2009, through December 31, 2010, taxpayers are allowed to claim the credit amount over two years instead of three.

Proposed Legislation

This bill would allow a corporate and individual income tax credit for each new "green job" that is created in Virginia by the taxpayer. The amount of the credit would be \$500 for each position that is created and that has an annual salary of \$50,000 or more. The tax credit would be allowed in the first taxable year in which the job had been filled for at least one year, and for the four succeeding taxable years in which the job is continuously filled. The tax credit would be allowed for up to 350 green jobs per taxpayer.

In order to qualify for the tax credit, the taxpayer would need to demonstrate that the green job was created by the taxpayer and the job was filled for the taxable year in which the credit is claimed.

"Green job" would mean employment in industries relating to the field of renewable, alternative energies, including the manufacture and operation of products used to generate electricity and other forms of energy from alternative sources that include hydrogen and fuel cell technology, landfill gas, geothermal heating systems, solar heating systems, hydropower systems, wind systems, and biomass and biofuel systems. The Secretary of Commerce and Trade would be required to develop a detailed definition and list of jobs that qualify for the credit and post them on his website.

"Job" would mean employment of an indefinite duration of an individual whose primary work activity is related directly to the field of renewable, alternative energies and for which the standard fringe benefits are paid by the taxpayer, requiring a minimum of either (i) 35 hours of an employee's time per week for the entire normal year of such taxpayer's operations, which "normal year" must consist of at least 48 weeks, or (ii) 1,680 hours per year. Positions created when a job function is shifted from an existing location in the Commonwealth would not qualify as a job.

This bill would allow any unused credits to be carried over for five taxable years. Any taxpayer that is allowed a green jobs tax credit would still be allowed to qualify for benefits under the Enterprise Zone Grant Program. In addition, this bill would not allow taxpayers to claim this credit and the Major Business Facility Jobs Tax Credit or a federal tax credit for investments in clean energy manufacturing facilities that fosters job creation for the creation of the same job.

Any credits granted to a partnership, limited liability company, or electing small business corporation (S corporation) would be allocated to the individual partners, members, or shareholders, respectively, in proportion to their ownership or interest in such business entities.

This bill would be effective for taxable years beginning on or after January 1, 2010, but before January 1, 2015.

Other Legislation

Senate Bill 623 is identical to this bill.

cc : Secretary of Finance

