DEPARTMENT OF TAXATION
2010 Fiscal Impact Statement

1. Patron Jeffrey L. McWaters

2. Bill Number SB 693
House of Origin:
X **Introduced**
_____ **Substitute**
_____ **Engrossed**

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

3. Committee Senate Finance

4. Title Income Tax: Major Business Facility Job Tax Credit

5. Summary/Purpose:

This bill would change the tax credit amount allowed under the Major Business Facility Job Tax Credit from $1,000 to $10,000 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 25. This bill would provide that the credit be claimed over five years instead of three for taxable years beginning on and after January 1, 2010.

This bill would eliminate the special provisions for economically distressed areas or enterprise zone, and apply the 25 jobs threshold to all localities.

This bill would provide that these changes would only be applicable for qualified full-time employees first hired on or 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 impact on General Fund revenue. Lowering the job thresholds to qualify for the credit, while increasing the amount of the credit tenfold, would increase the amount of credit claimed annually. The increased amount would depend on the number of new jobs that qualify for the credit and whether employers have sufficient tax liability to utilize the credit. Based on credits granted in 2008 and announcements of job creation for the same year, the revenue loss could total $48 million in FY 2011, and increase to $95 million by FY 2016.

However, to the extent that changing the criteria for claiming the Major Business Facility Jobs Tax 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 Virginia employees in calendar year 2010. Each employee receives a salary of $50,000. If the jobs threshold is lowered to 25 new jobs, Company A would qualify for a credit of $10,000 per job for 50 new jobs. Therefore, Company A would earn a credit of $500,000, which may be claimed over five taxable years. 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 Virginia employees in calendar year 2010. Each employee receives a salary of $100,000. If the jobs threshold is lowered to 25 new jobs, Company B would qualify for a credit of $10,000 per job for 75 new jobs. Therefore, Company B would earn a credit of $750,000, which may be claimed over five taxable years. If each employee is paid an annual salary of $100,000, according to the Virginia Economic Development Partnership, they would pay 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: Yes.

In order to clarify that the taxpayer may claim one fifth of the credit each year for five years instead of only $2,000 per year, the following technical amendment is suggested:

Page 2, Line 95 after ~~amount~~
Strike: $2,000
Insert: one fifth of the credit amount

11. Other comments:

Background

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) or an enterprise zone, 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 change the tax credit amount allowed under the Major Business Facility Job Tax Credit from $1,000 to $10,000 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 25. This bill would provide that the credit be claimed over five years instead of three for taxable years beginning on and after January 1, 2010.

This bill would eliminate the special provisions for economically distressed areas or enterprise zone, and apply the 25 jobs threshold to all localities.

This bill would provide that these changes would only be applicable for qualified full-time employees first hired on or after January 1, 2010.

Other Legislation

House Bill 237 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 Virginia gross income of the entity creating the jobs.

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. This bill 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 853, House Bill 1091 and Senate Bill 481 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.

cc : Secretary of Finance

Date: 2/2/2010 TG
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