

DEPARTMENT OF TAXATION

2012 Fiscal Impact Statement

1. **Patron** Mark R. Herring

3. **Committee** House Finance

4. **Title** Telework expenses tax credit

2. **Bill Number** SB 238

House of Origin:

 Introduced

 Substitute

 Engrossed

Second House:

 X **In Committee**

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would extend the sunset date for the Telework Expenses Tax Credit from taxable years beginning before January 1, 2014 to taxable years beginning before January 1, 2017. It also extends the date before which an employer must enter into a telework agreement with a participating employee.

This bill would also make other related changes. Such changes include clarifying that the credit cannot exceed \$50,000 per employer for each calendar year; that credit is for expenses incurred during the calendar year that ends during the taxable year; that the employer is prohibited from claiming another Virginia income tax credit based on the jobs, wages, or other expenses for the same employee; that the reservation application must be submitted in the year preceding the calendar year in which the eligible telework expenses will be incurred.

This bill would require the Department of Taxation ("the Department") to submit a report concerning the Telework Expenses Tax Credit to the House Appropriations, House Finance, and Senate Finance Committees no later than November 15 of the year immediately preceding the sunset date.

This bill would be effective for taxable years beginning on or after January 1, 2012.

This bill is an Executive bill.

6. **Budget amendment necessary:** No.

7. **No Fiscal Impact.** (See Line 8.)

8. **Fiscal implications:**

Administrative Costs

There would be no administrative costs in connection with extending the sunset date. However, this bill would also require the Department to submit a report by November 15

of the year before the expiration of this tax credit. In order to produce the report, the Department would have to modify its forms and systems to capture additional data, and begin accumulating data and conducting surveys soon after the bill becomes effective. If present staff is diverted to the proposed study, then the Department would not have the resources to continue performing other critical work. The Department will be submitting an analysis of staffing needs to staff of the money committees that addresses how to obtain the resources necessary to conduct the proposed studies.

Revenue Impact

This bill would have no revenue impact, as the extension of the telework expenses tax credit is assumed in the official General Fund forecast.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: Yes.

A committee amendment changed the proposed sunset date from taxable years beginning on or after January 1, 2016, to taxable years beginning on or after January 1, 2017. Similar changes were not made to the time period during which a telework agreement may be entered into by an employer and a participating employee. To conform to the committee amendment, the Department suggests the following technical amendment:

Line 41, after January 1,
Strike: 2016
Insert: 2017

11. Other comments:

Current Law

The Telework Expenses Tax Credit is an individual and corporate income tax credit for employers that incur eligible telework expenses. There are two parts to the credit. Employers can claim a credit for eligible telework expenses incurred during the 2012 and 2013 calendar years, not to exceed \$1,200 per eligible teleworking employee. Employers can also claim up to \$20,000 for the costs of conducting a telework assessment. The total amount of the Telework Expenses Tax Credit claimed by an employer cannot exceed \$50,000 for the 2012 and 2013 calendar years. The portion of the credit for conducting a telework assessment can only be claimed once by an employer. The total amount of credits is currently capped at \$1 million annually for the 2012 and 2013 taxable years.

To qualify for a credit for eligible telework expenses, the employer must enter into a signed telework agreement with the teleworking employee on or after July 1, 2012, but before January 1, 2014. This telework agreement must be in accordance with policies set by the Department of Rail and Public Transportation.

To receive this credit, taxpayers must submit a reservation application to the Department between September 1 and October 31 of the year preceding the taxable year for which the tax credit is to be earned. If reservation applications for the year exceed the \$1 million credit cap, tentative credits are allocated to taxpayers on a pro rata basis. Once an employer has actually incurred eligible expenses, it must submit a final application to the Department in order to an actual credit allocation. If applications for credit allocations exceed the credit cap, the Department allocates credit to taxpayers on a pro rata basis.

The amount of credit claimed cannot exceed the tax liability of the taxpayer and unused credit amounts cannot be carried forward to future taxable years. Taxpayers cannot claim this credit if any other income tax credit was also claimed or if the qualified expenses are deducted by the taxpayer in any taxable year.

The credit is currently set to expire on January 1, 2014.

Current Tax Credit Reports

The Department issues an annual Corporate Tax Preferences Report to the members of the House Appropriations, House Finance, and Senate Finance Committees. Among other data, this report includes the dollar amount of corporate income credits claimed by corporations. This report also includes summary information regarding the types of taxpayers that claim corporate income tax relief. The most recent report is R.D. 238.

Beginning in 2011, the Department publishes an annual fiscal year tax credit report as part of its annual report. This report shows the number of individual and corporate taxpayers that claim each tax credit and the dollar amount of tax credits that are claimed each fiscal year. The most recent report can be found on the Department's website at www.tax.virginia.gov.

Proposal

This bill would extend the sunset date for the Telework Expenses Tax Credit from taxable years beginning before January 1, 2014 to taxable years beginning before January 1, 2017. If the suggested technical amendment is adopted, it would also extend the date before which an employer must enter into a telework agreement with a participating employee from January 1, 2014 to January 1, 2017.

This bill would also make other related changes. Such changes include clarifying that the credit cannot exceed \$50,000 per employer for each calendar year; that credit is for expenses incurred during the calendar year that ends during the taxable year; that the employer is prohibited from claiming another Virginia income tax credit based on the jobs, wages, or other expenses for the same employee; that the reservation application must be submitted in the year preceding the calendar year in which the eligible telework expenses will be incurred.

This bill would require the Department of Taxation to submit a report concerning the Telework Expenses Tax Credit to the House Appropriations, House Finance, and Senate

Finance Committees no later than November 15 of the year immediately preceding the sunset date. Such report would include the following information:

- The number of persons, individuals, or other classes of taxpayers claiming the Telework Expenses Tax Credit in each of the immediately preceding five years;
- The aggregate amount of credits claimed in each of the preceding five years by each class of taxpayers;
- The average amount of credit claimed by each class of taxpayers in each of the preceding five years;
- The average amount of taxes paid, after claiming any credits or deductions, by each class of taxpayers claiming the tax credit in each of the preceding five years;
- Any noted trends in the use of the tax credit; and
- Any other information deemed relevant by the Department.

All other agencies of the Commonwealth involved in the administration of the credit would be required to provide information requested by the Department.

Although the bill would require the report to provide information on the preceding five taxable years, data for only three taxable years of the credit would be available by November 15, 2016. The first returns for the 2012 taxable year would be due April 15, 2013, but taxpayers may elect a six-month extension until October 15, 2013. In addition, taxpayers reporting on a fiscal year that begins during calendar year 2012 could be filing under an extended due date as late as September 15, 2014, and the Department would need a few months to process, validate and analyze the data. Therefore, by November 15, 2016, the Department would have data for taxable years 2012, 2013, and most of 2014.

This bill would be effective for taxable years beginning on or after January 1, 2012.

Similar Legislation

House Bill 551 would extend the sunset date for the Telework Expenses Tax Credit to taxable years beginning before January 1, 2016.

cc : Secretary of Finance

Date: 2/16/2012 KLC
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