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HOUSE BILL NO. 1370

Offered January 9, 2013

Prefiled December 9, 2012

A *BILL to amend the Code of Virginia by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12:11, relating to a small business job creation tax credit.*

Patron—Bell, Richard P.

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 58.1-439.12:11 as follows:

§ 58.1-439.12:11. Small business job creation tax credit.

A. For taxable years beginning on or after January 1, 2013, a small business, as defined in § 2.2-904.1, shall be allowed a credit against the tax levied pursuant to § 58.1-320 or 58.1-400 for each new full-time job the small business creates within the Commonwealth. The amount of the credit for each new full-time job created shall be \$1,000. The credit for each new full-time job may only be claimed beginning with the first taxable year in which the new full-time job has been continuously filled for a period of 12 months.

Each small business qualifying under this section shall be allowed the credit for an aggregate of 50 new full-time jobs.

B. As used in this section:

"Full-time job" means a job of indefinite duration, for which the small business is the employer and for which the standard fringe benefits are paid by the small business, requiring a minimum of either (i) 35 hours of an employee's time per week for the entire normal year of such small business' operations, in 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 shall not qualify as a full-time job under this section.

C. To qualify for the tax credit provided in subsection A, the small business shall demonstrate that it created the full-time job.

D. A small business shall not be allowed a tax credit pursuant to this section for any job for which the small business is allowed a green job creation tax credit pursuant to § 58.1-439.12:05.

E. The amount of the credit shall not exceed the total amount of tax imposed by this chapter upon the small business for the taxable year. Any credit not usable for the taxable year for which the credit was first allowed to be claimed may be carried over for credit against the income taxes of the small business in the next five succeeding taxable years or until the total amount of the tax credit has been taken, whichever is sooner.

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

G. The Tax Commissioner shall develop guidelines implementing the provisions of this section. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

H. The provisions of this section shall expire for taxable years beginning on or after January 1, 2016.