13100579D

1 **SENATE BILL NO. 1009**
2 Offered January 9, 2013
3 Prefiled January 8, 2013
4 *A BILL to amend and reenact § 58.1-439.20 of the Code of Virginia, relating to Neighborhood*
5 *Assistance Act tax credits.*
6 —————
Patron—Stanley
7 —————
8 Referred to Committee on Finance
9 —————
10 **Be it enacted by the General Assembly of Virginia:**
11 **1. That § 58.1-439.20 of the Code of Virginia is amended and reenacted as follows:**
12 **§ 58.1-439.20. Proposals; regulations; tax credits authorized; amount for programs.**
13 A. Any neighborhood organization may submit a proposal, other than education proposals, to the
14 Commissioner of the State Department of Social Services requesting an allocation of tax credits for use
15 by business firms making donations to the neighborhood organization. Neighborhood organizations may
16 submit education proposals to the Superintendent of Public Instruction requesting an allocation of tax
17 credits for use by business firms making donations to the neighborhood organization.
18 The proposal shall set forth the program to be conducted by the neighborhood organization, the
19 low-income persons or eligible students with disabilities to be assisted, the estimated amount to be
20 donated to the program, and the plans for implementing the program.
21 B. The State Board of Social Services and the ~~Board~~ *Department* of Education are hereby authorized
22 to adopt regulations (or, alternatively, guidelines in the case of the ~~Board~~ *Department* of Education) for
23 the approval or disapproval of such proposals by neighborhood organizations and for determining the
24 value of the donations. Such regulations or guidelines shall contain a requirement that *a neighborhood*
25 *organization shall have been in existence for at least one year. As a prerequisite for approval,*
26 *neighborhood organizations with total revenues (including the value of all donations) (i) in excess of*
27 *$100,000 for the organization's most recent year ended provide to the State Board of Social Services or*
28 *the Department of Education, as applicable,* an ~~annual~~ audit~~,~~ *or* review~~, or~~ ~~compilation~~ ~~as~~ ~~required~~ ~~by~~
29 ~~OMB~~ ~~Circular~~ ~~No.~~ ~~A-133~~ ~~as~~ ~~may~~ ~~be~~ ~~applicable~~ ~~to~~ ~~nonprofit~~ ~~organizations~~ ~~be~~ ~~provided~~ ~~by~~ ~~the~~
30 ~~neighborhood~~ ~~organization~~ ~~as~~ ~~a~~ ~~prerequisite~~ ~~for~~ ~~approval~~ *for such year performed by an independent*
31 *certified public accountant, or (ii) of $100,000 or less for the organization's most recent year ended,*
32 *provide to the State Board of Social Services or the Department, as applicable, a compilation for such*
33 *year performed by an independent certified public accountant.*
34 Such regulations or guidelines by the ~~Board~~ *Department* of Education shall provide that at least 50
35 percent of the persons served by the neighborhood organization are low-income persons or eligible
36 students with disabilities ~~as~~ ~~defined~~ ~~in~~ ~~§~~ ~~58.1-439.18~~ ~~and~~ ~~such~~*, and that at least 50 percent of the*
37 *neighborhood organization's revenues are used to provide services to low-income persons or to eligible*
38 *students with disabilities. Such* regulations by the State Board of Social Services shall provide that at
39 least 40 percent of the persons served by the neighborhood organization are low-income persons as
40 defined in § 58.1-439.18. *In order for a proposal to be approved, the applicant neighborhood*
41 *organization and any of its affiliates shall meet the requirements of the application regulations or*
42 *guidelines.* Such regulations or guidelines shall provide for the equitable allocation of the available
43 amount of tax credits among the approved proposals submitted by neighborhood organizations. The
44 regulations or guidelines shall also provide that at least 10 percent of the available amount of tax credits
45 each year shall be allocated to qualified programs proposed by neighborhood organizations not receiving
46 allocations in the preceding year; however, if the amount of tax credits for qualified programs requested
47 by such neighborhood organizations is less than 10 percent of the available amount of tax credits, the
48 unallocated portion of such 10 percent of the available amount of tax credits shall be allocated to
49 qualified programs proposed by other neighborhood organizations.
50 C. If the Commissioner of the State Department of Social Services or the Superintendent of Public
51 Instruction approves a proposal submitted by a neighborhood organization, the organization shall make
52 the allocated tax credit amounts available to business firms making donations to the approved program.
53 A neighborhood organization shall not assign or transfer an allocation of tax credits to another
54 neighborhood organization without the approval of the Commissioner of the State Department of Social
55 Services or the Superintendent of Public Instruction, as applicable.
56 Notwithstanding any other provision of law, (i) no more than an aggregate of $0.825 million in tax
57 credits shall be approved in a fiscal year to a neighborhood organization or to a grouping of
58 neighborhood organization affiliates for all education proposals, and (ii) no more than an aggregate of

59 $0.5 million in tax credits shall be approved in a fiscal year to a neighborhood organization or to a
60 grouping of neighborhood organization affiliates for all other proposals combined. However, if the State
61 Department of Social Services or the Department of Education after the initial allocation of tax credits
62 to approved proposals has a balance of tax credits remaining for the fiscal year that can be used or
63 allocated by a neighborhood organization for a proposal that had been approved for tax credits during
64 the initial allocation by the State Department of Social Services or the Department of Education, then (a)
65 the Commissioner of the State Department of Social Services or the Superintendent of Public
66 Instruction, as applicable, shall reallocate the remaining balance of tax credits to such previously
67 approved proposals to the extent that a neighborhood organization can use or allocate additional tax
68 credits for the previously approved proposal and (b) the $0.825 and $0.5 million annual limitations for
69 tax credits approved to a grouping of neighborhood organization affiliates shall be inapplicable to the
70 extent of any balance of tax credits reallocated under clause (a). The balance of tax credits remaining for
71 reallocation shall include the amount of any tax credits that have been granted for a proposal approved
72 during the initial allocation but for which the Commissioner of the State Department of Social Services
73 or the Superintendent of Public Instruction has been provided notice by the neighborhood organization
74 that it will not be able to use or allocate such amount for the approved proposal.
75   D. The total amount of tax credits granted for programs approved under this article for each fiscal
76 year shall not exceed $15 million allocated as follows: $8 million for education proposals for approval
77 by the Superintendent of Public Instruction and $7 million for all other proposals for approval by the
78 Commissioner of the State Department of Social Services. The Superintendent and the Commissioner of
79 the State Department of Social Services shall work cooperatively for purposes of ensuring that
80 neighborhood organization proposals are submitted to the proper state agency. The Superintendent and
81 the Commissioner of the State Department of Social Services may request the assistance of the
82 Department of Taxation for purposes of determining whether or not anticipated donations for which tax
83 credits are requested by a neighborhood organization likely qualify as a charitable donation under federal
84 tax laws and regulations.
85   E. Actions of (i) the State Department of Social Services, or the Commissioner of the same, or (ii)
86 the Superintendent or the Department of Education relating to the review of neighborhood organization
87 proposals and the allocation of tax credits to proposals shall be exempt from the provisions of the
88 Administrative Process Act (§ 2.2-4000 et seq.). Decisions of (a) the State Department of Social
89 Services, or the Commissioner of the same, or (b) the Superintendent or the Department of Education
90 shall be final and not subject to review or appeal.
91   F. The issuance of tax credits under this article shall expire on July 1, 2017.