DEPARTMENT OF TAXATION
2013 Fiscal Impact Statement

1. Patron Scott A. Surovell

2. Bill Number HB 1916

House of Origin:
X **Introduced**
_____ **Substitute**
_____ **Engrossed**

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

3. Committee House Finance

4. Title Income Tax; Tax Credit for Solar Thermal Systems

5. Summary/Purpose:

This bill would create an individual or corporate income tax credit for any person who has constructed, purchased, or leased a solar thermal system and placed such system in service in the Commonwealth during the taxable year. The tax credit would be equal to 35 percent of the installed cost of the system. The tax credit would only be allowed to the ultimate consumer or user of the solar thermal system. In the case of a solar thermal system that serves a single-family dwelling, the tax credit would be claimed for the taxable year in which the property is placed in service. For all other solar thermal systems, the tax credit would be claimed in three equal annual installments beginning with the taxable year in which the property is placed in service and for the next two succeeding taxable years. No tax credit would be allowed to the extent that the cost of the solar thermal system was provided by public funds.

This bill would be effective for taxable years beginning on or after January 1, 2013, but before January 1, 2018.

6. Budget amendment necessary: Yes.
Page 1, <u>Revenue Estimates</u>
Item 273, <u>Department of Taxation</u>

7. Fiscal Impact Estimates are: Preliminary. (See Line 8.)
7a. Expenditure Impact:

Fiscal Year	***Dollars***	***Positions***	***Fund***
2012-13	$33,810	0	GF
2013-14	$62,220	1	GF
2014-15	$62,220	1	GF
2015-16	$62,220	1	GF
2016-17	$62,220	1	GF
2017-18	$62,220	1	GF
2018-19	$62,220	1	GF

7b. Revenue Impact:

Fiscal Year	*Dollars*	*Fund*
2012-13	$0	GF
2013-14	($700,000)	GF
2014-15	($1.0 million)	GF
2015-16	($1.3 million)	GF
2016-17	($1.3 million)	GF
2017-18	($1.3 million)	GF
2018-19	($600,000)	GF

8. Fiscal implications:

Department of Taxation's Administrative Costs

The Department of Taxation ("the Department") would require additional funding of $33,810 in Fiscal Year 2014 and $66,220 in each fiscal year thereafter in order to implement the provisions of this bill. Such funding would include funding for one FTE to determine whether applicants qualify for the tax credit.

Department of Mines, Minerals and Energy's ("DMME") Administrative Costs

This bill would have no impact on the DMME's administrative costs.

Revenue Impact

This bill would have an estimated negative impact on General Fund revenues of $700,000 in Fiscal Year 2014, $1 million in Fiscal Year 2015, $1.3 million annually in Fiscal Years 2016 through 2018, and $600,000 in Fiscal Year 2019. This estimate is based on the number of solar rebate applications received by the DMME through the Virginia Energy Efficiency Rebate Program in 2009, 2010, and 2011. In the case of a solar thermal system that serves a single-family dwelling, the tax credit would be required to be claimed in the year that the property is placed in service. For all other solar thermal systems, the tax credit would be required to be claimed over three taxable years, beginning with the taxable year in which the property is placed in service. Therefore, the revenue impact would be staggered for solar thermal systems that do not serve a single-family dwelling.

9. Specific agency or political subdivisions affected:

Department of Taxation
Department of Mines, Minerals and Energy

10. Technical amendment necessary: No.

11. Other comments:

Federal Energy Investment Tax Credit

Under federal law, businesses may claim a tax credit equal to 30 percent of the cost of qualified fuel cell property; equipment which uses solar energy to generate electricity, heat or cool a structure, or provide solar process heat; equipment which uses solar energy to illuminate the inside of a structure using fiber-optic distributed sunlight; and qualified small wind energy property.

Businesses may claim a tax credit equal to 10 percent of the cost of any other energy property. Other types of energy property include equipment used to produce, distribute, or use energy derived from a geothermal deposit; qualified microturbine property; combined heat and power system property; and equipment which uses the ground or ground water as a thermal energy source to heat a structure or as a thermal energy sink to cool a structure.

To qualify for the tax credit, the construction, reconstruction, or erection of the property must be completed by the taxpayer or the original use of the property must commence with the taxpayer. Additionally, the property must be depreciable or amortizable and the property must meet the performance and quality standards set forth in the Treasury Regulations.

No tax credit is allowed with respect to property for the taxable year in which a grant is made under § 1603 of the American Recovery and Reinvestment Tax Act of 2009 or any subsequent taxable year. A recapture provision applies if a tax credit is determined for any taxable year before which such a grant is made.

Federal Residential Energy Efficient Property Tax Credit

Under federal law, individual taxpayers may claim a nonrefundable tax credit equal to 30 percent of qualified solar electric property, solar water heating property, fuel cell property, small wind energy property, and geothermal heat pump property expenditures made during the taxable year. The tax credit cannot exceed the sum of the taxpayer's regular tax liability less any nonrefundable personal credits, foreign tax credits, Puerto Rico, and possession tax credits for the taxable year. Any unused tax credit may be carried over to the following taxable year and added to the residential energy efficient property tax credit for that year.

Virginia Renewable Energy Incentives

Virginia does not currently have any tax incentives for renewable energy property. However, Virginia has had several rebate programs that allow individuals and businesses to receive rebates for certain qualifying costs associated with energy efficient equipment.

The Virginia Energy Efficiency Rebate Program was a federally funded program that was administered through the Department of Mines, Minerals and Energy (DMME). Through this program, homeowners were eligible for rebates equal to 20 percent of the costs of qualifying energy conserving products and services, up to $2,000. Commercial consumers were eligible for rebates equal to 20 percent of qualifying costs, up to $4,000. Home and business owners were also able to qualify for an additional $250 for the cost of energy audits. Qualifying costs included the costs of upgrading heating and air conditioning equipment, adding insulation, replacing leaky windows, and other improvements to existing homes and businesses that reduced energy consumption and utility costs.

This program was funded through the American Recovery and Reinvestment Act of 2009. The first round of funding for efficiency rebates was approximately $10 million and this amount was reserved within three weeks of the start of the program. Applicants were able to reserve a rebate for a qualifying system by applying to the DMME and would then have 180 days to complete the work and redeem their reservation for a rebate check. Once reservations depleted available funds, applications were placed on a waiting list. Another round of funding was available in March 2010 in the amount of $6.5 million, which allowed wait-listed applicants to receive rebate reservations as unclaimed rebate funds became available. The Energy Efficiency Rebate Program was closed on April 29, 2011, after paying out nearly 7,700 rebates and dispersing $10.4 million to Virginia homeowners and businesses.

The Energy Efficient Appliance Rebate Program was another federally funded program that is administered through the DMME. Through this program, Virginians could receive up to $500 on certain ENERGY STAR qualified appliances, such as heat pumps, dishwashers, air conditioners, furnaces, and refrigerators. This program terminated on March 19, 2012.

The Home Efficiency Rebate Program is a third program administered by the DMME, through which homeowners could receive rebates for 20 percent of the documented cost of qualifying energy conserving products and services, up to a maximum of $595 per residential property address. Items that qualified for the rebate include oil furnaces, gas, propane, or oil hot water boilers, insulation and air sealing, replacement windows and exterior doors, and storm doors. Homeowners could also receive rebates for the cost of energy audits, up to $250. To qualify, homeowners had to purchase energy efficiency products and systems from a Virginia retailer or vendor, or from a contractor with a license to do business in Virginia. The application process for this program opened on June 20, 2011, and closed to new applicants on February 17, 2012.

A final program administered through the DMME was the Geothermal Heat Pump Rebate Program. This program allowed Virginia homeowners to receive a rebate for 20 percent of the documented costs of qualifying geothermal heat pumps, up to $2,000 per residential property address. To qualify, homeowners had to purchase energy efficiency products and systems from a Virginia retailer or vendor, or from a contractor with a license to do business in Virginia. This program closed to new applicants on December 31, 2011.

<u>Proposed Legislation</u>

This bill would create an individual or corporate income tax credit for any person who has constructed, purchased, or leased a solar thermal system and placed such system in service in the Commonwealth during the taxable year. This tax credit would be equal to

35 percent of the installed cost of the system. The tax credit would be effective for taxable years beginning on or after January 1, 2013, but before January 1, 2018. The tax credit would only be allowed to the ultimate consumer or user of the solar thermal system. In the case of a solar thermal system that serves a single-family dwelling, the tax credit would be claimed for the taxable year in which the property is placed in service. For all other solar thermal systems, the tax credit would be claimed in three equal annual installments beginning with the taxable year in which the property is placed in service and for the next two succeeding taxable years. No tax credit would be allowed to the extent that the cost of the solar thermal system was provided by public funds.

The tax credit allowed would not exceed (i) $500,000 for each solar thermal system placed in service for any purpose other than use for a single-family dwelling or placed in service and having in excess of 120 square feet of collector area or (ii) $2,500 for every other solar thermal system placed in service.

Upon the request of a person who leases a solar thermal system, the lessor of the system would be required to give the person a statement that describes the solar thermal system and states the cost of the system.

If, in one of the taxable years in which the installment of a tax credit accrues, the solar thermal system is disposed of, taken out of service, or moved out of the Commonwealth, then the tax credit would expire and the person would not be allowed to claim any installment of the tax credit for such solar thermal system for that taxable year or any taxable year thereafter, and would be subject to recapture for any tax credit so claimed. However, the person would be allowed to claim the portion of an installment that accrued in a prior taxable year and is being carried over.

The amount of the tax credit claimed would not be allowed to exceed the total amount of income tax imposed upon the taxpayer claiming the tax credit. Any tax credit not usable for the taxable year for which the tax credit was first allowed to be claimed would be allowed to be carried over for credit against the income taxes of the person in the next three succeeding taxable years or until the total amount of the tax credit has been taken, whichever is sooner.

The amount of any tax credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company would be allocated to the partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entity.

Taxpayers would be required to submit all documentation with their income tax returns as required by the Department.

The Tax Commissioner, in consultation with the Director of the DMME, would be required to develop and update as necessary guidelines implementing the provisions of this tax credit. Such guidelines would be exempt from the provisions of the Administrative Process Act.

This bill would be effective for taxable years beginning on or after January 1, 2013, but before January 1, 2018.

cc : Secretary of Finance

Date: 1/21/2013 MTH
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