DEPARTMENT OF TAXATION
2013 Fiscal Impact Statement

1. **Patron** William M. Stanley, Jr.

2. **Bill Number** SB 745
   House of Origin:
   X **Introduced**
   _____ **Substitute**
   _____ **Engrossed**

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

3. **Committee** Senate Finance

4. **Title** Corporate income tax; lower rate for certain businesses.

5. **Summary/Purpose:**

This bill would reduce the corporate income tax rate for certain businesses that open a satellite office or operation in a Virginia locality with a population of 200,000 or less. In order to qualify, a corporation would have to (1) either be located outside Virginia or located in a Virginia locality with a population exceeding 200,000 people; (2) make a capital investment equal or greater than $250,000 in the new satellite office or operation; and (3) either hire five new employees or reduce the commuting distance for at least five employees to less than 10 miles. The rate would be reduced from six percent to three percent for the first three taxable years that the new office is in operation, but any tax reduction could not exceed the amount of the capital investment.

The bill would be effective for taxable years beginning on or after January 1, 2013.

6. **Budget amendment necessary:** Yes.
   ITEM: Page 1, Revenue Estimates

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

8. **Fiscal implications:**

Administrative Costs

The Department of Taxation ("the Department") 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, the Department considers implementation of this bill as "routine," and does not require additional funding.

The Department will provide specific administrative costs on any legislation that is not “routine.” Additionally, the Department 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, the Department will identify the costs at that time.

Revenue Impact

This bill would result in an unknown loss in General Fund revenues beginning as early as Fiscal Year 2013 with a significant unknown revenue loss in Fiscal Year 2014 and thereafter. The impact for Fiscal Year 2013 would depend on the timing of the enactment by the General Assembly and whether businesses could adjust their estimated payments based on qualifying projects. See the chart below for details about the amount of corporate income tax revenues collected annually.

Corporate Income Tax Revenue (1999-2011)

Fiscal Year	Amount
1999	$420,421,456
2000	565,909,181
2001	363,757,398
2002	290,215,035
2003	343,318,607
2004	425,715,754
2005	616,690,263
2006	867,115,786
2007	879,575,371
2008	807,851,584
2009	648,032,537
2010	806,472,760
2011	822,258,803
2012	859,922,840

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Current Law

Virginia currently offers several tax credits to businesses that encourage investment and job creation at Virginia locations. The Major Business Facility Job Tax Credit is a tax credit for taxpayers in qualifying industries that create at least 50 new full-time jobs (25 jobs for economically distressed areas or enterprise zones). The amount of the tax credit is equal to $1,000 for each qualifying new job in excess of the 50/25 job threshold.

The International Trade Facility Tax Credit is a tax credit for either capital investment in or increased employment at a qualifying international trade facility. This tax credit is equal to $3,500 per new qualified full-time employee that results from increased qualified trade activities or two percent of the amount of capital investment made by the taxpayer to facilitate such qualified activities.

The Telework Expenses Tax Credit is a tax credit that encourages businesses to promote teleworking by allowing a tax credit equal to the amount of telework expenses incurred, up to $1,200 per employee, and the amount of expenses incurred for conducting a telework assessment, up to $20,000. The total amount of this tax credit cannot exceed $50,000 per employer annually.

The Green Jobs Tax Credit is a tax credit for each new “green job” that is created in Virginia by the taxpayer. The tax credit is equal to $500 for each new position with an annual salary of $50,000 or more. The tax credit is allowed in the first taxable year in which the job has been filled for at least one year, and in the four succeeding taxable years in which the job is continuously filled. The tax credit may be claimed for up to 350 green jobs per taxpayer.

Proposal

Under this bill, any corporation located outside Virginia that opens an office in a Virginia locality with a population of 200,000 or less would be permitted to use a reduced corporate income tax rate for determining its Virginia income tax for the first three taxable years that such new office is in operation.

In addition, any corporation located in a Virginia locality with a population in excess of 200,000 that opens a satellite office or operation in a Virginia locality with a population of 200,000 or less would be permitted to use a reduced corporate income tax rate for determining its Virginia income tax for the first three taxable years that such satellite offices are in operation.

In order to be eligible for the reduced tax rate, the corporation would have to make a capital investment for the new satellite office or operation of at least $250,000. The corporation would also have to hire five or more full-time employees or reduce the commuting distance for at least five existing full-time employees to less than 10 miles. “Full-time employees” would mean a natural person employed for indefinite duration in a position requiring a minimum of either (i) 35 hours of the employee’s time per week for the entire normal year, which “normal year” must consist of at least 48 weeks, or (ii) 1,680 hours per year. Seasonal or temporary employees would not qualify as new full-time employees for the purpose of this credit.

For corporations meeting the requirements of this bill, the corporate income tax rate would be reduced from six percent to three percent. However, the tax reduction resulting from the lower tax rate could not exceed the actual capital investment made by the corporation in establishing the new or satellite office or operation.

Businesses that do not operate as corporations would not be eligible for the reduced tax rate proposed in this bill. The majority of businesses that conduct business in Virginia are organized as pass-through entities or sole proprietorships, rather than as corporations. For Taxable Year 2010, more than 184,000 pass-through entity returns were filed, as compared to fewer than 64,000 corporate income tax returns. Additionally, many businesses file individual returns as sole proprietorships. For example, according to IRS data, 578,234 individual income tax returns were filed in Virginia for Taxable Year 2007 by owners of sole proprietorships. This number includes a broad range of businesses, from people selling products part-time, to tradesmen (such as plumbers, electricians, and carpenters) running a full-time business. Such businesses would not benefit from the reduced rate proposed by this bill.

Because this bill requires that the business be located outside Virginia or in another Virginia locality with a population exceeding 200,000 people, it would not apply to new corporations that start a new business in Virginia. Additionally, because the bill applies to satellite offices, it would not apply to corporations that move their headquarters to Virginia from another state, or corporations that relocate their headquarters from a Virginia locality with a population of more than 200,000 people.

Although not required by the bill, the Department of Taxation would likely need to work with Virginia localities to develop procedures for providing documentation to corporations that qualify for the reduced income tax rate.

The bill would be effective for taxable years beginning on or after January 1, 2013.

Similar Legislation

Senate Bill 692 would reduce the corporate income tax rate to 0 percent for taxable years beginning on and after January 1, 2014.

cc : Secretary of Finance

Date: 01/09/2013 MTH
DLAS SB745F161