DEPARTMENT OF TAXATION
2013 Fiscal Impact Statement

1. Patron William M. Stanley, Jr.

2. Bill Number SB 747

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

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

3. Committee Senate Finance

4. Title Income tax; industrial building rehabilitation tax credit.

5. Summary/Purpose:

This bill would create an income tax credit for both individuals and corporations that rehabilitate or retrofit existing industrial buildings that are at least 25 years old and have been vacant for at least 5 years. The tax credit would be equal to the entire amount paid or incurred for the rehabilitation, but could not exceed $100,000. In order to qualify, the business would have to move operations into a rehabilitated industrial building and be new to the locality in which the industrial building is located.

Any unused tax credits would be allowed to be carried over for three taxable years. No business would be eligible to claim this tax credit if it claimed the Historic Rehabilitation Tax Credit.

The bill would be effective for taxable years beginning on and after January 1, 2014, but before January 1, 2019.

6. Budget amendment necessary: No.

7. Fiscal Impact Estimates are: Not Available. (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

The negative impact on General Fund revenue is unknown, but could potentially be significant. No data is available on the number of businesses that intend to rehabilitate and locate their business in an industrial building that is at least 25 years old. Further, the average cost to retrofit or rehabilitate an industrial building that is at least 25 years old is unknown.

The Historic Rehabilitation Tax Credit allows a tax credit for the rehabilitation of a certified historic structure. In order for a taxpayer to claim the Historic Rehabilitation Tax Credit, the rehabilitation must meet certain standards and be approved by the Department of Human Resources. Despite those requirements, in 2012, 1,154 taxpayers claimed the Historic Rehabilitation Tax Credit for an approximate total of $59.2 million. This bill's negative impact on General Fund revenue could be significant and may reach or exceed the level of the Historic Rehabilitation Tax Credit because such rehabilitations would not be subject to the standards or to an approval process such as the one in place for the Historic Rehabilitation Tax Credit.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: Yes.

In order to receive a tax credit under this bill, a company establishing a new business in Virginia must locate its business in an existing industrial building that is at least 25 years old and has been vacant for at least 5 years. The bill does not specify when the 5 years of vacancy must occur. Accordingly, the Department suggests the following technical amendment:

Line 16, after for
Strike: at least
Insert: the immediately preceding

11. Other comments:

Current Law

The Historic Rehabilitation Tax Credit allows a tax credit for 25 percent of eligible expenses for rehabilitating a certified historic structure. The tax credit is available against the Individual Income Tax, Fiduciary Income Tax, Corporate Income Tax, Bank Franchise Tax, Insurance Premiums License Tax, or State License Tax on Public Service Corporations. Upon application by a taxpayer, the Virginia Department of Historic Resources determines the amount of eligible rehabilitation expenses and issues a certificate to the taxpayer. Generally, the rehabilitation work for a project must meet the Secretary of the Interior's Standards for Rehabilitation. If the project does not meet these standards, no part of the tax credit may be claimed. If the work is certified as meeting these standards, the tax credit is based on all eligible expenses.

Under Virginia's Enterprise Zone Program, the Department of Housing and Community Development administers the Real Property Investment Grant program for qualified real property investments made by any individual or entity to a commercial, industrial, or mixed use building or facility in a designated Virginia Enterprise Zone. A business or individual investing over $100,000 in a rehabilitation project may qualify for a grant of up to 20% of expenditures over the $100,000 threshold. For new construction projects, a business or individual must invest at least $500,000 before the 20% grant becomes effective. Grants are capped at $100,000 per building or facility for investments less than $5 million, and $200,000 for investments of $5 million or more.

Proposal

Under this bill, a taxpayer that establishes a new business within a Virginia locality in an existing industrial building that is least 25 years old and has been vacant for at least 5 years would be eligible for either an individual or corporate income tax credit equal to 100% of the amount paid or incurred by such taxpayer during the taxable year for rehabilitating or retrofitting the industrial building. The total amount of the tax credit could not exceed $100,000.

The amount of tax credit allowed pursuant to this bill would not be permitted to exceed the tax imposed for the taxable year. A taxpayer would be able to carry over any unused tax credit for up to three taxable years. The tax credit would not be refundable.

The bill would prohibit a taxpayer from claiming this tax credit if it is claiming or has claimed a Historic Rehabilitation Tax Credit for the same rehabilitation or retrofitting expenses. Unlike the Historic Rehabilitation Tax Credit and the Virginia Enterprise Zone Program, no state or local agency or organization would be required to approve the rehabilitation that is the basis for this tax credit.

The bill would be effective for taxable years beginning on and after January 1, 2014, but before January 1, 2019.

cc : Secretary of Finance

Date: 01/09/2013 MTH
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