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HOUSE BILL NO. 502

Offered January 8, 2014

Prefiled January 6, 2014

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 tax credit for employers operating quality child care programs for employees' children or paying employees for the costs of quality child care programs for their children.*

Patrons—Krupicka, BaCote, Brink, Futrell, Hope, Howell, A.T., Kory, Lopez, Mason, Peace, Plum, Rasoul, Spruill and Tyler; Senator: Puckett

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. Employer child care program tax credit.

A. As used in this section, unless the context requires a different meaning:

"Quality child care program" means a center-based or similar program that is participating in Virginia's Quality Rating and Improvement System.

"Virginia's Quality Rating and Improvement System" means a system, coordinated through the Department of Social Services, used to identify the quality features of child care programs to support a child's development and preparation for kindergarten.

B. 1. For taxable years beginning on or after January 1, 2014, an employer shall be allowed a credit against the tax imposed by § 58.1-320 or 58.1-400 equal to 35 percent of the (i) expenditures paid or incurred during the taxable year by the employer to operate a quality child care program in the Commonwealth used primarily by the children of the employer's employees, (ii) payments made during the taxable year by the employer to an independent quality child care program in the Commonwealth in the name of and for the benefit of the employer's employee, which employee's children are kept at such program during the employee's working hours, or (iii) payments made during the taxable year by the employer directly to an employee that are an employee benefit solely for quality child care program expenses paid or incurred by the employee for his children to attend an independent quality child care program in the Commonwealth. An employer shall be allowed to include as part of the payment for purposes of computing the credit any administrative cost associated with the employer's payment to the independent quality child care program not to exceed two percent.

The Tax Commissioner shall not issue more than (a) \$5 million in credits pursuant to this section during any fiscal year of the Commonwealth or (b) \$250,000 in credits to any employer pursuant to this section for the taxable year.

2. No credit shall be allowed under this section for the taxable year unless the Tax Commissioner approves the employer's application for credit and issues the tax credit. Proper applications submitted to the Department for the credit shall be approved in the order received.

Notwithstanding that a child care program must participate in Virginia's Quality Rating and Improvement System in order for the employer to be allowed a credit, credit shall be allowed under subdivision 1 for such child care expenditures or payments by an employer prior to January 1, 2016, if the child care program otherwise meets all other requirements pursuant to this section.

3. As a condition for the credit to be allowed pursuant to clause (ii) of subdivision 1, payments made by the employer to an independent quality child care program shall not exceed the amount charged to other children of like age and abilities of individuals not employed by the employer.

C. The amount of the credit claimed by any employer pursuant to this section shall not exceed the total amount of tax imposed by this chapter upon the employer for the taxable year. Any tax credit not usable for the taxable year in which the employer's application for credit was approved by the Tax Commissioner may be carried over to the extent usable for the next three taxable years or until the total amount of the tax credit has been taken, whichever is sooner.

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

E. Employers shall make and keep such records as may be deemed reasonably necessary by the Tax Commissioner to document their eligibility and expenditures in regard to the credit allowed under this section.

INTRODUCED

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58 2. That the Tax Commissioner shall develop guidelines implementing the provisions of this act.
59 Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000
60 et seq. of the Code of Virginia).