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HOUSE BILL NO. 620

Offered January 8, 2014

Prefiled January 7, 2014

A BILL to amend and reenact §§ 58.1-439.20, 58.1-439.21, and 58.1-439.24 of the Code of Virginia, relating to neighborhood assistance tax credits.

Patron—Mason

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-439.20, 58.1-439.21, and 58.1-439.24 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-439.20. Proposals; regulations; tax credits authorized; amount for programs.

A. Any neighborhood organization may submit a proposal, other than education proposals, to the Commissioner of the State Department of Social Services requesting an allocation of tax credits for use by business firms making donations to the neighborhood organization. Neighborhood organizations may submit education proposals to the Superintendent of Public Instruction requesting an allocation of tax credits for use by business firms making donations to the neighborhood organization.

The proposal shall set forth the program to be conducted by the neighborhood organization, the low-income persons or eligible students with disabilities to be assisted, the estimated amount to be donated to the program, and the plans for implementing the program.

B. The State Board of Social Services and the Department of Education are hereby authorized to adopt regulations (or, alternatively, guidelines in the case of the Department of Education) for the approval or disapproval of such proposals by neighborhood organizations and for determining the value of the donations. Such regulations or guidelines shall contain a requirement that a neighborhood organization shall have been in existence for at least one year. Also, such regulations or guidelines shall contain a requirement that as a prerequisite for approval, neighborhood organizations with total revenues (including the value of all donations) (i) in excess of \$100,000 for the organization's most recent year ended provide to the State Board of Social Services or the Department of Education, as applicable, an audit or review for such year performed by an independent certified public accountant or (ii) of \$100,000 or less for the organization's most recent year ended, provide to the State Board of Social Services or the Department of Education, as applicable, a compilation for such year performed by an independent certified public accountant.

Such regulations or guidelines by the Department of Education shall provide that at least 50 percent of the persons served by the neighborhood organization are low-income persons or eligible students with disabilities, and that at least 50 percent of the neighborhood organization's revenues are used to provide services to low-income persons or to eligible students with disabilities. Such regulations by the State Board of Social Services shall provide that at least 40 50 percent of the persons served by the neighborhood organization are low-income persons as defined in § 58.1-439.18. In order for a proposal to be approved, the applicant neighborhood organization and any of its affiliates shall meet the requirements of the application regulations or guidelines. Such regulations or guidelines shall provide for the equitable allocation of the available amount of tax credits among the approved proposals submitted by neighborhood organizations. The regulations or guidelines shall also provide that at least 10 percent of the available amount of tax credits each year shall be allocated to qualified programs proposed by neighborhood organizations not receiving allocations in the preceding year; however, if the amount of tax credits for qualified programs requested by such neighborhood organizations is less than 10 percent of the available amount of tax credits, the unallocated portion of such 10 percent of the available amount of tax credits shall be allocated to qualified programs proposed by other neighborhood organizations.

C. If the Commissioner of the State Department of Social Services or the Superintendent of Public Instruction approves a proposal submitted by a neighborhood organization, the organization shall make the allocated tax credit amounts available to business firms making donations to the approved program. A neighborhood organization shall not assign or transfer an allocation of tax credits to another neighborhood organization without the approval of the Commissioner of the State Department of Social Services or the Superintendent of Public Instruction, as applicable.

Notwithstanding any other provision of law, (i) no more than an aggregate of \$0.825 million in tax credits shall be approved in a fiscal year to a neighborhood organization or to a grouping of neighborhood organization affiliates for all education proposals, and (ii) no more than an aggregate of

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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.

79 The Superintendent and the Commissioner of the State Department of Social Services shall work
80 cooperatively for purposes of ensuring that neighborhood organization proposals are submitted to the
81 proper state agency. The Superintendent and the Commissioner of the State Department of Social
82 Services may request the assistance of the Department of Taxation for purposes of determining whether
83 or not anticipated donations for which tax credits are requested by a neighborhood organization likely
84 qualify as a charitable donation under federal 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. Notwithstanding the provisions of § 30-19.1:11, the issuance of tax credits under this article shall
92 expire on July 1, 2028.

93 **§ 58.1-439.21. Tax credit; amount; limitation; carry over.**

94 A. The Superintendent of Public Instruction and the Commissioner of the State Department of Social
95 Services shall certify to the Department of Taxation, or in the case of business firms subject to a tax
96 under Article 1 (§ 58.1-2500 et seq.) of Chapter 25 or Article 2 (§ 58.1-2620 et seq.) of Chapter 26, to
97 the State Corporation Commission, the applicability of the tax credit provided herein for a business firm.

98 B. A business firm shall be eligible for a credit against the taxes imposed by Articles 2 (§ 58.1-320
99 et seq.), 6 (§ 58.1-360 et seq.), and 10 (§ 58.1-400 et seq.) of Chapter 3, Chapter 12 (§ 58.1-1200 et
100 seq.), Article 1 (§ 58.1-2500 et seq.) of Chapter 25, or Article 2 (§ 58.1-2620 et seq.) of Chapter 26, in
101 an amount equal to ~~65~~ 50 percent of the value of the money, property, professional services, and
102 contracting services donated by the business firm during its taxable year to neighborhood organizations
103 for programs approved pursuant to § 58.1-439.20. Notwithstanding any other law and for purposes of
104 this article, the value of a motor vehicle donated by a business firm shall, in all cases, be such value as
105 determined for federal income tax purposes using the laws and regulations of the United States relating
106 to federal income taxes. No tax credit of less than \$400 shall be granted for any donation. No tax credit
107 shall be granted to any business firm for donations to a neighborhood organization providing job
108 training or education for individuals employed by the business firm. Any tax credit not usable for the
109 taxable year the donation was made may be carried over to the extent usable for the next five
110 succeeding taxable years or until the full credit has been utilized, whichever is sooner. Credits granted to
111 a partnership, electing small business (Subchapter S) corporation, or limited liability company shall be
112 allocated to their individual partners, shareholders, or members, respectively, in proportion to their
113 ownership or interest in such business entities.

114 C. A tax credit shall be issued by the Superintendent of Public Instruction or the Commissioner of
115 the State Department of Social Services to a business firm upon receipt of a certification made by a
116 neighborhood organization to whom tax credits were allocated for an approved program pursuant to
117 § 58.1-439.20. The certification shall identify the type and value of the donation received and the
118 business firm making the donation. A business firm shall be eligible for a tax credit under this section
119 only to the extent that sufficient tax credits allocated to the neighborhood organization for an approved
120 project are available.

§ 58.1-439.24. Donations by individuals.

For purposes of this section, the term "individual" means the same as that term is defined in § 58.1-302, but excluding any individual included in the definition of a "business firm" as such term is defined in § 58.1-439.18.

A. Notwithstanding any provision of this article limiting eligibility for tax credits, an individual making a monetary donation or a donation of marketable securities to a neighborhood organization approved under this article shall be eligible for a credit against taxes imposed by § 58.1-320 as provided in this section.

B. Notwithstanding any provision of this article specifying the amount of a tax credit, a tax credit issued to an individual making a monetary donation or a donation of marketable securities to an approved project shall be equal to ~~65~~ 50 percent of the value of such donation; however, tax credits (i) shall not be issued for any donation made in the taxable year with a value of less than \$500 and (ii) shall be issued only for the first \$125,000 in value of donations made by the individual during the taxable year. The maximum aggregate donations of \$125,000 for the taxable year for which tax credits may be issued and the minimum required donation of \$500 shall apply on an individual basis.

C. An individual shall be eligible for a tax credit under this section only to the extent that sufficient tax credits allocated to the neighborhood organization approved under this article are available.

D. The amount of credit allowed pursuant to this section, if such credit has been issued by the Superintendent of Public Instruction or the Commissioner of the State Department of Social Services, shall not exceed the tax imposed pursuant to § 58.1-320 for such taxable year. Any credit not usable for the taxable year may be carried over for credit against the individual's income taxes until the earlier of (i) the full amount of the credit is used or (ii) the expiration of the fifth taxable year after the taxable year in which the tax credit has been issued to such individual. If an individual that is subject to the tax limitation imposed pursuant to this subsection is allowed another credit pursuant to any other section of the Code of Virginia, or has a credit carryover from a preceding taxable year, such individual shall be considered to have first utilized any credit allowed that does not have a carryover provision, and then any credit that is carried forward from a preceding taxable year, prior to the utilization of any credit allowed pursuant to this section.

E. A tax credit shall be issued by the Superintendent of Public Instruction or the Commissioner of the State Department of Social Services to an individual only upon receipt of a certification made by a neighborhood organization to whom tax credits were allocated for an approved program pursuant to § 58.1-439.20. The certification shall identify the type and value of the donation received and the individual making the donation.

2. That the provisions of this act amending §§ 58.1-439.21 and 58.1-439.24 of the Code of Virginia shall become effective for taxable years beginning on or after January 1, 2014.

3. That the provisions of this act amending § 58.1-439.20 of the Code of Virginia shall become effective on January 1, 2015.