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HOUSE BILL NO. 870

Offered January 8, 2014

Prefiled January 8, 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 tax credit for investing in certain new infrastructure.*

Patron—Yancey

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. New infrastructure investment tax credit.

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

"New infrastructure" means broadband infrastructure, transmission lines, gas lines, private roadways, computerized ports, or other infrastructure including but not limited to water and sewer infrastructure, which is placed into service by a business for its own use. To the extent that such infrastructure when placed into service is a replacement of existing infrastructure, it shall not be new infrastructure.

B. For taxable years beginning on or after January 1, 2014, a business shall be allowed a credit against the taxes imposed by § 58.1-320 or 58.1-400 equal to 25 percent of the expenses incurred by the business in placing into service new infrastructure. The credit shall equal 35 percent of the new infrastructure expenses incurred if the new infrastructure is placed into service in conjunction with a public highway or road construction or improvement project to which the infrastructure is immediately contiguous. Credit shall only be allowed beginning with the taxable year in which the new infrastructure is placed into service.

C. Any business seeking tax credits pursuant to this section shall apply to the Department. As part of the application, the business shall provide to the Department sales receipts, contracts, and such other evidence of the new infrastructure expenses incurred as may be required by the Department. The Department shall determine the credit amount allowable for the taxable year and shall issue the corresponding tax credit. In no case shall any business be issued more than \$50,000 in tax credits under this section for any taxable year, and the total amount of tax credits granted under this section to all businesses for any fiscal year of the Commonwealth shall not exceed \$2.5 million. If the total amount of allowable tax credits approved by the Department in accordance with this section exceeds the \$2.5 million maximum, the Tax Commissioner shall allocate such credits on a pro rata basis.

D. The amount of the credit claimed shall not exceed the total amount of tax imposed by this chapter upon the business for the taxable year. Any credit not usable for the taxable year for which the credit was first allowed may be carried over for credit against the income taxes of the business in the next five succeeding taxable years or until the total amount of the tax credit has been taken, whichever is sooner. Credits granted to a partnership, limited liability company, or electing small business corporation (S corporation) shall be allocated to the individual partners, members, or shareholders, respectively, in proportion to their ownership or interest in such business entity.

E. The Department shall develop and issue guidelines for purposes of implementing the provisions of this section. The guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.). The guidelines shall include, but not be limited to, procedures for claiming the tax credit provided by this section.

INTRODUCED

HB870