

# DEPARTMENT OF TAXATION

## 2014 Fiscal Impact Statement

1. **Patron** Charniele L. Herring

3. **Committee** House Finance

4. **Title** Income Tax: Tax Credit for Small Businesses  
Hiring Graduates of Virginia's Public  
Colleges

2. **Bill Number** HB 678

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

### 5. **Summary/Purpose:**

This bill would allow certain small businesses to claim an individual or corporate income tax credit for creating new full-time jobs that are filled by graduates of Virginia's public colleges. The amount of the credit would equal \$2,500 for each new full-time job. If, however, the new full-time job created is a science, technology, engineering, mathematics, or applied mathematics (STEM or STEAM) position that is filled by a graduate with a STEM or STEAM degree, the credit would equal \$20,000 for such job. The credit would be allowed for the taxable year at which time the new full-time job has been continuously filled for a period of twelve months. No credit, however, would be issued to a small business if the number of full-time jobs in such taxable year is less than the base year employment. Any unused credits would be carried forward for the next five taxable years or until the total amount of the tax credit has been taken, whichever is sooner.

The total amount of tax credits that could be granted in a fiscal year would be limited to \$2 million. The Department of Taxation ("the Department") would be required to develop procedures for issuing tax credits in the event that applications for the credit exceed \$2 million in a fiscal year.

This bill would prohibit a small business from claiming this tax credit and the Green Job Creation Tax Credit for the same job or employee.

This bill would be effective for taxable years beginning on or after January 1, 2014, but prior to January 1, 2016.

6. **Budget amendment necessary:** Yes.

ITEM(S): Page 1, Revenue Estimates

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

**7b. Revenue Impact:**

<i><b>Fiscal Year</b></i>	<i><b>Dollars</b></i>	<i><b>Fund</b></i>
2013-14	\$0	GF
2014-15	\$0	GF
2015-16	(\$2 million)	GF
2016-17	(\$2 million)	GF
2017-18	\$0	GF
2018-19	\$0	GF
2019-20	\$0	GF

**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 have an unknown negative impact on General Fund revenue, beginning in Fiscal Year 2016. The reduction in General Fund revenue, however, would not exceed the \$2 million cap in any fiscal year. Since a Virginia graduate must be employed for twelve months before a small business can claim the credit, it is unlikely that many credits would be granted for Taxable Year 2014.

**9. Specific agency or political subdivisions affected:**

Department of Taxation

**10. Technical amendment necessary:** Yes.

Under this bill, small businesses would be required to attach the Department’s credit certification to the Virginia income tax return filed with the Department. This requirement is unnecessary because the Department would already have such information in its system. To address this issue, the Department suggests the following technical amendment.

Line 52, after claimed

Strike: The small business shall attach the certification to the Virginia income tax return filed with the Department.

## **11. Other comments:**

### Existing Virginia Job Credits

#### *Major Business Facility Jobs Tax Credit*

Individuals, estates, trusts, corporations, banks, and insurance companies may claim a Virginia tax credit if the taxpayer creates at least 50 new full-time jobs in connection with the establishment or expansion of a major business facility, and the company is engaged in a qualifying industry in Virginia. If a taxpayer is located in an enterprise zone or in an economically distressed area (as defined by the Virginia Economic Development Partnership), the threshold is reduced from 50 to 25. Tax credits will be recaptured proportionately if employment decreases during the five years following the initial credit year.

This nonrefundable tax credit is equal to \$1,000 per each qualifying new job in excess of the 50/25 job threshold. The tax credit must be claimed ratably over three taxable years, beginning with the taxable year following the year in which the facility is established or expanded, or the new qualifying jobs are added. Unused tax credits may be carried forward for the next ten taxable years.

For taxpayers whose initial credit year begins on or after January 1, 2009, but before January 1, 2015, the tax credit amount may be claimed ratably over two taxable years instead of three.

#### *Green Jobs Tax Credit*

Individuals and corporations may claim a tax credit for each new “green job” that is created in Virginia. The nonrefundable tax credit is equal to \$500 for each position that is created and that has an annual salary of \$50,000 or more. The tax credit is allowed for the first taxable year in which the job has been filled for at least one year, and for the four succeeding taxable years in which the job is continuously filled. An individual or corporation may claim a tax credit for up to 350 green jobs.

An individual or corporation is not allowed to claim the Green Jobs Tax Credit and the Major Business Facility Jobs Tax Credit or a federal tax credit for investments in manufacturing facilities for clean energy technologies that would foster investment and job creation in clean energy manufacturing.

#### *International Trade Facility Tax Credit*

Taxpayers may claim a nonrefundable corporate income or individual income tax credit for either making capital investments in an international trade facility or for increasing jobs related to an international trade facility. The jobs portion of the International Trade Facility Tax Credit is equal to \$3,500 for each qualified full-time employee that results from

increased qualified trade activities by the taxpayer. An international trade facility that creates jobs in a tobacco-dependent locality may claim an increased tax credit amount equal to \$7,000 for each qualified full-time employee that results from increased qualified trade activities by the taxpayer, to the extent that funding is available in the Technology Initiative in Tobacco-Dependent Localities Fund.

Tax credits will be recaptured proportionately if employment decreases during the five years following the initial tax credit year. An individual or corporation is not allowed to claim the International Trade Facility Tax Credit and the Major Business Facility Jobs Tax Credit for the same qualified full-time employee.

### Other States

#### *Oklahoma*

Oklahoma allows certain aerospace companies to claim a tax credit equal to ten percent of the compensation paid to an engineer during the first five years of his or her employment if the engineer graduated from an Oklahoma college. If, however, the engineer graduated from a college outside Oklahoma, the employer would receive a credit equal to five percent of the compensation paid to the employee during the first five years.

#### *Florida*

As part of Florida's entertainment industry financial incentive program, any qualified production that employs persons hired within twelve months of graduating from a film and entertainment-related or digital media-related course of study at an institution of higher education in Florida is eligible for a fifteen percent tax credit on qualified expenditures that are wages, salaries, or other compensation paid to such recent graduates for one year from the date of hiring.

### Proposed Legislation

This bill would allow certain small businesses to claim an individual or corporate income tax credit for creating new full-time jobs that are filled by graduates of Virginia's public colleges. The amount of the credit would equal \$2,500 for each new full-time job. If, however, the new full-time job created is a science, technology, engineering, mathematics, or applied mathematics (STEM or STEAM) position that is filled by a graduate with a STEM or STEAM degree, the credit would equal \$20,000 for such job. The credit would be allowed for the taxable year at which time the new full-time job has been continuously filled for a period of twelve months. No credit, however, would be issued to a small business if the number of full-time jobs in such taxable year is less than the base year employment. Any unused credits would be carried forward for the next five taxable years or until the total amount of the tax credit has been taken, whichever is sooner.

The total amount of tax credits that could be granted in a fiscal year would be limited to \$2 million. The Department of Taxation ("the Department") would be required to develop procedures for issuing tax credits in the event that applications for the credit exceed \$2 million in a fiscal year.

This bill would require a small business to demonstrate to the Department that the new full-time job was created by the small business and that such job was filled by a Virginia graduate continuously for twelve months. In order to claim the tax credit, small businesses would be required to apply to the Department to determine the credit amount allowable for the taxable year. The Department would issue the tax credits by providing written certifications to the small businesses of the amount of tax credit that may be claimed.

For purposes of this bill, "small business" would be defined as a business that is at least 51 percent independently owned and controlled by one or more individuals who are U.S. citizens or legal resident aliens and, together with affiliates, has 75 or fewer employees or average annual gross receipts of \$10 million or less averaged over the immediately preceding three taxable years. One or more of the individual owners would be required to control both the management and daily operations of the small business.

"Full-time job" would mean a job in the Commonwealth of indefinite duration, for which the small business is an employer and for which standard fringe benefits are paid by the small business, requiring a minimum of either (i) 35 hours of an employee's time per week for the entire normal year of such small business's operations, consisting of at least 48 weeks, or (ii) 1,680 hours per year. Seasonal or temporary positions, and positions created when a job function is shifted from an existing location in the Commonwealth would not qualify as full-time jobs.

"Virginia graduate" would mean a person who was (i) awarded an associate's or bachelor's degree from a public institution of higher education in the Commonwealth within three years immediately preceding the date the person was hired into a full-time job, and (ii) not an independent contractor of the small business within such three-year period.

"Base year employment" would mean the average annual number of full-time jobs for which the small business is the employer for the immediately preceding three taxable years of the small business.

For purposes of this bill, the term "STEM or STEAM" would also include a health care-related discipline.

Small businesses would be prohibited from claiming this credit for any employee or job for which the small business is allowed a Green Job Creation Tax Credit. This bill, however, would not prohibit small businesses from claiming this credit for any employee or job for which the small business is allowed other job-related credits, such as the Major Business Facility Jobs Tax Credit or the International Trade Facility Tax Credit.

Any tax credits granted to a partnership, a limited liability company, or an electing small business corporation (S corporation) would be allocated to the individual partners, members, or shareholders, respectively, in proportion to their ownership or interest in such business entities.

The Department would be required to develop guidelines implementing the provisions of this bill. Such guidelines would be exempt from the provisions of the Administrative Process Act.

This bill would be effective for taxable years beginning on or after January 1, 2014, but before January 1, 2016.

#### Similar Legislation

**House Bill 381** would allow eligible businesses to claim an individual income tax credit for the principal paid on business loans during the taxable year.

**Senate Bill 107** would allow taxpayers to claim a tax credit equal to 65 percent of the donation made to a science, technology, engineering, and math (STEM) organization approved by the Department of Education.

cc : Secretary of Finance

Date: 1/19/2014 mjm  
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