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HOUSE BILL NO. 1390

Offered January 28, 2016

A *BILL to amend and reenact § 58.1-439.20 of the Code of Virginia, relating to the allocation of tax credits under the Neighborhood Assistance Act Tax Credit program.*

Patrons—Byron and Poindexter

Unanimous consent to introduce

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:**1. That § 58.1-439.20 of the Code of Virginia is 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. No proposal for an allocation of tax credits shall be untimely filed solely because such audit, review, or compilation was not submitted by the neighborhood organization by the proposal filing deadline, provided that the audit, review, or compilation is submitted to the State Board of Social Services or the Department of Education, as applicable, within the 30-day period immediately following such deadline.

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 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. The requirements for proposals submitted to the Superintendent of Public Instruction that (a) at least 50 percent of the persons served by the neighborhood organization and each of its affiliates are low-income persons or eligible students with disabilities and (b) at least 50 percent of the revenues of the neighborhood organization and each of its affiliates are used to provide services to such persons shall not apply to any neighborhood organization for tax credit allocations beginning for fiscal year 2014-2015 and ending with tax credit allocations for fiscal year 2019-2020, provided that (1) the neighborhood organization received an allocation of tax credits for fiscal year 2011-2012 allocations, (2) at least 50 percent of the persons served by the neighborhood organization are low-income persons or eligible students with disabilities, (3) at least 50 percent of the neighborhood organization's revenues are used to provide services to such persons, and (4) none of the affiliates of the neighborhood organization receives an allocation of tax credits for any program year of such five-year period.

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~~

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59 guidelines shall also provide that at least 10 percent of the available amount of tax credits each year
60 shall be allocated to qualified programs proposed by neighborhood organizations not receiving
61 allocations in the preceding year; however, if the amount of tax credits for qualified programs requested
62 by such neighborhood organizations is less than 10 percent of the available amount of tax credits, the
63 unallocated portion of such 10 percent of the available amount of tax credits shall be allocated to
64 qualified programs proposed by other neighborhood organizations *Beginning with tax credit allocations*
65 *for fiscal year 2016-2017 and thereafter, in no case shall (A) tax credits be allocated to any*
66 *neighborhood organization on the basis of the dollar value of tax credits issued in a prior program year*
67 *or years or (B) the method for determining the maximum allocation of tax credits differ for any*
68 *qualifying neighborhood organization.*

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

75 Notwithstanding any other provision of law, (i) no more than an aggregate of \$0.825 million in tax
76 credits shall be approved in a fiscal year to a neighborhood organization or to a grouping of
77 neighborhood organization affiliates for all education proposals, and (ii) no more than an aggregate of
78 \$0.5 million in tax credits shall be approved in a fiscal year to a neighborhood organization or to a
79 grouping of neighborhood organization affiliates for all other proposals combined. However, if the State
80 Department of Social Services or the Department of Education after the initial allocation of tax credits
81 to approved proposals has a balance of tax credits remaining for the fiscal year that can be used or
82 allocated by a neighborhood organization for a proposal that had been approved for tax credits during
83 the initial allocation by the State Department of Social Services or the Department of Education, then (a)
84 the Commissioner of the State Department of Social Services or the Superintendent of Public
85 Instruction, as applicable, shall reallocate the remaining balance of tax credits to such previously
86 approved proposals to the extent that a neighborhood organization can use or allocate additional tax
87 credits for the previously approved proposal and (b) the \$0.825 and \$0.5 million annual limitations for
88 tax credits approved to a grouping of neighborhood organization affiliates shall be inapplicable to the
89 extent of any balance of tax credits reallocated under clause (a). The balance of tax credits remaining for
90 reallocation shall include the amount of any tax credits that have been granted for a proposal approved
91 during the initial allocation but for which the Commissioner of the State Department of Social Services
92 or the Superintendent of Public Instruction has been provided notice by the neighborhood organization
93 that it will not be able to use or allocate such amount for the approved proposal.

94 D. The total amount of tax credits granted for programs approved under this article for each fiscal
95 year shall not exceed the following: for education proposals for approval by the Superintendent of
96 Public Instruction, \$8 million for fiscal year 2013-2014, \$8.5 million for fiscal year 2014-2015, and \$9
97 million for fiscal year 2015-2016 and each fiscal year thereafter; and for all other proposals for approval
98 by the Commissioner of the State Department of Social Services, \$7 million for fiscal year 2013-2014,
99 \$7.5 million for fiscal year 2014-2015, and \$8 million for fiscal year 2015-2016 and each fiscal year
100 thereafter.

101 The Superintendent and the Commissioner of the State Department of Social Services shall work
102 cooperatively for purposes of ensuring that neighborhood organization proposals are submitted to the
103 proper state agency. The Superintendent and the Commissioner of the State Department of Social
104 Services may request the assistance of the Department of Taxation for purposes of determining whether
105 or not anticipated donations for which tax credits are requested by a neighborhood organization likely
106 qualify as a charitable donation under federal tax laws and regulations.

107 E. Actions of (i) the State Department of Social Services, or the Commissioner of the same, or (ii)
108 the Superintendent or the Department of Education relating to the review of neighborhood organization
109 proposals and the allocation of tax credits to proposals shall be exempt from the provisions of the
110 Administrative Process Act (§ 2.2-4000 et seq.). Decisions of (a) the State Department of Social
111 Services, or the Commissioner of the same, or (b) the Superintendent or the Department of Education
112 shall be final and not subject to review or appeal.

113 F. Notwithstanding the provisions of § 30-19.1:11, the issuance of tax credits under this article shall
114 expire on July 1, 2028.