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HOUSE BILL NO. 1838

House Amendments in [] — February 1, 2017

A *BILL to amend and reenact § 58.1-439.20 of the Code of Virginia, relating to the Neighborhood Assistance Act tax credits; Board of Education.*

Patron Prior to Engrossment—Delegate Orrock

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 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. 1. The State Board of Social Services and the ~~Department~~ Board 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~~ Board 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~~ Board 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~~ Board of Education, as applicable, within the 30-day period immediately following such deadline.

Such regulations ~~or guidelines~~ by the ~~Department~~ Board of Education shall provide that at least 50 percent of the persons served by the neighborhood organization be low-income persons or eligible students with disabilities and that at least 50 percent of the neighborhood organization's revenues be 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 be 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.

2. The requirements for proposals submitted to the Superintendent of Public Instruction that (i) at least 50 percent of the persons served by the neighborhood organization and each of its affiliates be low-income persons or eligible students with disabilities and (ii) at least 50 percent of the revenues of the neighborhood organization and each of its affiliates be 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 (a) the neighborhood organization received an allocation of tax credits for fiscal year 2011-2012 allocations, (b) at least 50 percent of the persons served by the neighborhood organization are low-income persons or eligible students with disabilities, (c) at least 50 percent of the neighborhood organization's revenues are used to provide services to such persons, and (d) none of the affiliates of the neighborhood organization receives an allocation of tax credits for the program year of such five-year period.

3. Beginning with tax credit allocations for fiscal year 2016-2017 and thereafter, the requirements for a proposal submitted by a neighborhood organization to the Commissioner of Social Services that (i) at least 50 percent of the persons served by each affiliate of the neighborhood organization be low-income persons, (ii) at least 50 percent of the revenues of each affiliate of the neighborhood organization be

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59 used to provide services to such persons, (iii) each affiliate also meet the definition of "neighborhood
60 organization" under § 58.1-439.18, and (iv) an audit, review, or compilation for each affiliate be
61 furnished to the Commissioner of Social Services shall not apply in determining the eligibility of the
62 neighborhood organization submitting a proposal, provided that (a) the neighborhood organization
63 otherwise meets all statutory requirements and regulations, (b) the neighborhood organization received a
64 fiscal year 2013-2014 allocation of neighborhood assistance tax credits, and (c) no affiliate of the
65 neighborhood organization submits a proposal for or receives an allocation of tax credits pursuant to this
66 article for the program year for which the neighborhood organization has submitted its proposal.

67 4. The regulations ~~or guidelines of the State Board of Social Services~~ shall provide for the equitable
68 allocation of the available amount of tax credits among the approved proposals submitted by
69 neighborhood organizations. *The regulations of the Board of Education shall provide for (i) an*
70 *allocation of [credits that prioritizes the award of credits one-half of the credits] to neighborhood*
71 *organizations with education proposals that would benefit low-income persons and eligible students with*
72 *disabilities in underperforming [school districts schools] in the Commonwealth and (ii) a means for*
73 *the Superintendent of Public Instruction to gather input from local leaders regarding the [educations*
74 *educational] needs and priorities in the localities in which such applicant neighborhood organizations*
75 *have education programs for which an allocation of tax credits is sought. The regulations shall also*
76 *require that education programs seeking an allocation of credits provide data, metrics for success, or*
77 *other accountability measures that may be used to evaluate the success of the program. [Any funds not*
78 *used within either of the above allocation areas may be reassigned.]*

79 5. The regulations ~~or guidelines~~ shall also provide that at least 10 percent of the available amount of
80 tax credits each year shall be allocated to qualified programs proposed by neighborhood organizations
81 not receiving allocations in the preceding year; however, if the amount of tax credits for qualified
82 programs requested by such neighborhood organizations is less than 10 percent of the available amount
83 of tax credits, the unallocated portion of such 10 percent of the available amount of tax credits shall be
84 allocated to qualified programs proposed by other neighborhood organizations.

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

91 Notwithstanding any other provision of law, (i) no more than an aggregate of \$0.825 million in tax
92 credits shall be approved in a fiscal year to a neighborhood organization or to a grouping of
93 neighborhood organization affiliates for all education proposals, and (ii) no more than an aggregate of
94 \$0.5 million in tax credits shall be approved in a fiscal year to a neighborhood organization or to a
95 grouping of neighborhood organization affiliates for all other proposals combined. However, if the State
96 Department of Social Services or the ~~Department~~ Board of Education after the initial allocation of tax
97 credits to approved proposals has a balance of tax credits remaining for the fiscal year that can be used
98 or allocated by a neighborhood organization for a proposal that had been approved for tax credits during
99 the initial allocation by the State Department of Social Services or the ~~Department~~ Board of Education,
100 then (a) the Commissioner of Social Services or the Superintendent of Public Instruction, as applicable,
101 shall reallocate the remaining balance of tax credits to such previously approved proposals to the extent
102 that a neighborhood organization can use or allocate additional tax credits for the previously approved
103 proposal and (b) the \$0.825 and \$0.5 million annual limitations for tax credits approved to a grouping of
104 neighborhood organization affiliates shall be inapplicable to the extent of any balance of tax credits
105 reallocated under clause (a). The balance of tax credits remaining for reallocation shall include the
106 amount of any tax credits that have been granted for a proposal approved during the initial allocation
107 but for which the Commissioner of Social Services or the Superintendent of Public Instruction has been
108 provided notice by the neighborhood organization that it will not be able to use or allocate such amount
109 for the approved proposal.

110 D. The total amount of tax credits granted for programs approved under this article for each fiscal
111 year shall not exceed the following: for education proposals for approval by the Superintendent of
112 Public Instruction, \$8 million for fiscal year 2013-2014, \$8.5 million for fiscal year 2014-2015, and \$9
113 million for fiscal year 2015-2016 and each fiscal year thereafter; and for all other proposals for approval
114 by the Commissioner of Social Services, \$7 million for fiscal year 2013-2014, \$7.5 million for fiscal
115 year 2014-2015, and \$8 million for fiscal year 2015-2016 and each fiscal year thereafter.

116 The Superintendent of Public Instruction and the Commissioner of Social Services shall work
117 cooperatively for purposes of ensuring that neighborhood organization proposals are submitted to the
118 proper state agency. The Superintendent of Public Instruction and the Commissioner of Social Services
119 may request the assistance of the Department of Taxation for purposes of determining whether or not
120 anticipated donations for which tax credits are requested by a neighborhood organization likely qualify

as a charitable donation under federal tax laws and regulations.

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

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

[2. That the Board of Education may adopt regulations implementing the provisions of this section to be in effect on March 1, 2018.]

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