

DEPARTMENT OF TAXATION

2017 Fiscal Impact Statement

1. **Patron** Christopher T. Head

3. **Committee** House Finance

4. **Title** Small Business Job Creation Tax Credit

2. **Bill Number** HB 1439

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would allow a corporate and individual income tax credit for each new small business job created in Virginia. The amount of the credit would be equal to \$1,500 for each new job with an annual salary that is \$30,000 or more. Each qualified taxpayer would be allowed a credit for up to 50 small business jobs. The tax credit would be allowed for the first taxable year in which the job had been filled for at least one year and for and for each of the four succeeding taxable years, provided that the job is continuously filled during the respective taxable year.

The amount of the credit would not be allowed to exceed the tax liability of the taxpayer. Any unused credits would be permitted to be carried over for five taxable years or until the total amount of the tax credit has been taken, whichever is sooner.

This bill would be effective for taxable years beginning on or after January 1, 2017, but before January 1, 2022.

6. **Budget amendment necessary:** No.

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

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, but potentially significant, General Fund revenue impact, beginning in Fiscal Year 2018. It is unknown how many qualifying small business jobs would be filled each year. According to the Small Business Administration, there were 681,517 small businesses in Virginia in 2013, which employed 46 percent of the state's private workforce (1.5 million workers). Applying the growth rates of Virginia's nonagricultural employment, excluding government workers, assuming that 2.2 percent of the small business employment is attributable to new job gains, and applying statistics from the Social Security Administration regarding the number of workers earning \$30,000 or more, this bill could have an annual negative General Fund revenue impact of \$23 million. However, the actual number of jobs that would qualify for this credit may vary.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Virginia

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. Credits will be recaptured proportionately if employment decreases during the five years following the initial credit year.

This nonrefundable credit is equal to \$1,000 per each qualifying new job in excess of the 50/25 job threshold. The credit must be claimed ratably over two 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 credits may be carried forward for the next ten taxable years.

Green Jobs Tax Credit

Individuals and corporations may claim a credit for each new "green job" that is created in Virginia. The nonrefundable 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 credit for up to 350 green jobs.

Any taxpayer that is allowed a green jobs tax credit can still qualify for benefits under the Enterprise Zone Grant Program. However, 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 clean energy manufacturing facilities that fosters job creation for the creation of the same job.

Enterprise Zone Grant Program

The Virginia Enterprise Zone program, administered by the Department of Housing and Community Development, provides two grant programs available to eligible businesses that locate a facility within the zone. The Job Creation Grant program provides grants to eligible businesses for certain permanent full-time job creation exceeding a four job threshold. The Real Property Investment Grant program provides grants for qualified real property investments made in a designated Virginia Enterprise Zone by an eligible individual or business. Since the program was converted to a grant program in 2005, no new tax credits have been allowed. However, firms that had previously been allowed Enterprise Zone General Business Tax Credits are permitted to continue to claim them.

Other States

Several states have established job creation tax credit programs that impact small businesses. Under Alabama law, a small business may claim a \$1,000 tax credit for any new job paying more than \$10 per hour and is available in the tax year during which the employee has completed 12 months of consecutive employment.

Kentucky created the Small Business Tax Credit Program, which provides an income tax credit to small businesses that hire new full-time employees. Under this program, Kentucky-based businesses with less than 50 employees are eligible for a state income tax credit between \$3,500 – \$25,000. The Program has a statutory cap of \$3 million and small businesses must also invest \$5,000 or more in qualifying equipment or technology.

The Oklahoma Small Employer Quality Jobs Program allows qualifying small business to receive up to a 5% cash-back incentive for up to seven years to locate and expand in Oklahoma. Under this program, small businesses must have 90 employees or less, must created a minimum of five and a maximum of fifteen jobs and must also have 75% out-of-state sales within one year of business state date.

South Carolina created the Job Tax Credit allows small businesses with less than 99 employees to obtain a job tax credit for up to five years for any small business that creates two or more jobs. The amount of credit depends on the county where the small business is located.

West Virginia also issues a tax credit for small businesses. Under West Virginia law, a qualified small business creating less than 10 new jobs can receive a \$3,000 credit per new full-time job for five years, providing the new job pays at least \$32,000 per year and the employee has employer- provided health insurance benefits.

Illinois and Connecticut each had job creation tax credit programs in the past, however, they have expired. Under Illinois law, a small business could claim a \$2,500 tax credit to be applied against withholding tax for employers that have 50 or fewer total employees and hire new full-time employees. This law had a statutory sunset date of June 30, 2016.

Connecticut created the Qualified Small Business Job Creation Tax Credit Program, which provided a tax credit to small businesses that hire new full-time employees. Under this program, Connecticut-based businesses with less than 50 employees were eligible for a \$200 per month tax credit for each new full-time employee they hire, provided these employees were hired before January 1, 2013.

Proposal

This bill would allow a corporate and individual income tax credit for each new small business job created in Virginia. The amount of the credit would be equal to \$1,500 for each new job with an annual salary that is \$30,000 or more. Each qualified taxpayer would be allowed a credit for up to 50 small business jobs. The tax credit would be allowed for the first taxable year in which the job had been filled for at least one year and for each of the four succeeding taxable years, provided that the job is continuously filled during the respective taxable year.

"Job" would mean employment of an indefinite duration of an individual requiring a minimum of either (i) 35 hours of an employee's time per week for the entire normal year of such taxpayer's operations, which "normal year" must consist of at least 48 weeks, or (ii) 1,680 hours per year. Positions created when a job function is shifted from an existing location in the Commonwealth would not qualify as a job for purposes of this tax credit.

"Small business" would mean any business concern, as defined by the United States Small Business Administration, that is organized for profit, has a place of business in the U.S., operates primarily within the U.S. or makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor, is independently owned and operated, and is not dominant in its field on a national basis. The definition of "small" varies by industry.

"Small business job" means job in a small business as defined by the U.S. Small Business Administration.

The amount of these credits would not be allowed to exceed the tax liability of the taxpayer. Any unused credits would be permitted to be carried over for five taxable years or until the total amount of the tax credit has been taken, whichever is sooner. A taxpayer would not be allowed to claim this credit and any other tax credit for the same jobs. A taxpayer may also qualify for the benefits under the Enterprise Zone Grant Act, however, such taxpayer shall not be eligible for any other specific tax credit for the same jobs.

Any credits granted to a partnership, limited liability company, or 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.

This bill would be effective for taxable years beginning on or after January 1, 2017, but before January 1, 2022.

Similar Bills:

Senate Bill 849 would create a waiver of tax penalties for small business for the first five years of operation, provided the business generates less than \$100,000 in taxable income and has fewer than 50 employees.

Senate Bill 793 would allow tax penalties be waived for a small business during its first two years of operation, provided that such small business enters into an installment agreement with the Tax Commissioner.

cc : Secretary of Finance

Date: 1/19/2017 NM
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