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HOUSE BILL NO. 1146

Offered January 8, 2020

Prefiled January 7, 2020

A *BILL to amend the Code of Virginia by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12:13, relating to income tax credit; existing business growth.*

Patron—Wampler

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 58.1-439.12:13 as follows:

§ 58.1-439.12:13. Tax credit for existing business growth.

A. As used in this section:

"Existing business" means a Virginia company in existence and that has filed Virginia income tax returns for at least two years prior to the taxable year in which it is claiming a credit under this section. A company that becomes an existing business during a qualifying period shall be subject to the same temporal limitations and hiring thresholds in this section as if such company had been an existing business at the start of such qualifying period.

"Full-time employee" means a permanent, full-time position that requires a minimum of (i) 35 hours of an employee's time a week for the entire normal year of the eligible company's operations, so long as such normal year consists of at least 48 weeks, or (ii) 1,680 hours per year.

"Qualifying period" means each two-year period, beginning in taxable year 2020, during which time increased employment of new full-time employees shall be measured and for which an existing business may claim a credit pursuant to this section.

B. 1. For taxable years beginning on or after January 1, 2020, but before January 1, 2040, an existing business shall be allowed a nonrefundable credit against the total taxes imposed by § 58.1-320 or 58.1-400 subject to the limitations in subdivision 2. The amount of the credit shall equal five percent of the total taxes imposed by § 58.1-320 or 58.1-400 for the taxable year in which a qualifying period ends. An existing business may claim only one credit in each qualifying period and may claim a credit under this section in each qualifying period for which the existing business meets the employment thresholds identified in subdivision 2.

2. The credit allowed under this section is available to:

a. An existing business with at least one but no more than five employees for the taxable year in which a qualifying period ends when such existing business adds at least one new full-time employee during such qualifying period;

b. An existing business with more than five but no more than 10 employees for the taxable year in which a qualifying period ends when such existing business adds at least five new full-time employees during such qualifying period;

c. An existing business with more than 10 but no more than 25 employees for the taxable year in which a qualifying period ends when such existing business adds at least seven new full-time employees during such qualifying period;

d. An existing business with between more than 25 but no more than 50 employees for the taxable year in which a qualifying period ends when such existing business adds at least 15 new full-time employees during such qualifying period; and

e. An existing business with more than 50 but no more than 100 employees for the taxable year in which a qualifying period ends when such existing business adds at least 25 new full-time employees during such qualifying period.

C. The amount of the credit that may be claimed in any single taxable year shall not exceed the total amount of tax imposed by this chapter for that taxable year. If the amount of the credit allowed under this section exceeds the taxpayer's tax liability for the taxable year in which the qualifying period ends, the amount that exceeds the tax liability may be carried over for credit against the income taxes of the taxpayer in the next five taxable years or until the total amount of the tax credit has been taken, whichever is sooner.

D. For purposes of this section, the amount of any credit 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 entities.

INTRODUCED

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59 *E. The Tax Commissioner shall develop guidelines for claiming the credit provided by this section.*
60 *Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et*
61 *seq.).*