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HOUSE BILL NO. 1771

Offered January 13, 2021

Prefiled December 28, 2020

A BILL to amend the Code of Virginia by adding in Article 3 of Chapter 3 of Title 58.1 a section numbered 58.1-339.13, relating to individual and corporate income tax credit; employers of National Guard members and self-employed National Guard members.

Patrons—Freitas, Campbell, R.R. and Cole, M.L.; Senator: Reeves

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 3 of Chapter 3 of Title 58.1 a section numbered 58.1-339.13 as follows:

§ 58.1-339.13. Tax credits for employers of National Guard members and self-employed National Guard members.

A. For purposes of this section:

"Employer" means the same as that term is defined in § 58.1-460.

"National Guard employee" means a person who is (i) an employee, as defined in § 58.1-460, of an employer and (ii) an active member of the National Guard of the Commonwealth of Virginia.

"Self-employed National Guard member" means an active member of the National Guard of the Commonwealth of Virginia who derives a substantial portion of his income from a trade or business (i) operated by the member as a sole proprietor, (ii) through which the member has attempted to earn taxable income, and (iii) for which the member has filed the appropriate Internal Revenue Service Form 1040, Schedule C or F, for the previous taxable year.

"Wages" means the same as that term is defined in § 58.1-460 and includes wages or salaries paid during the deployment of a National Guard employee.

B. 1. For taxable years beginning on and after January 1, 2021, but before January 1, 2026, an employer shall be allowed a nonrefundable credit against the tax levied pursuant to § 58.1-320 or 58.1-400 for wages paid to a National Guard employee during the taxable year. The amount of the credit shall be 25 percent if such employee was in a military pay status for 65 days or more during such taxable year or 15 percent if such employee was in a military pay status for more than 44 days but fewer than 65 days during such taxable year. The credit shall not be allowed if such employee was in a military pay status for fewer than 45 days during such taxable year.

2. For taxable years beginning on and after January 1, 2021, but before January 1, 2026, a self-employed National Guard member shall be allowed a nonrefundable credit against the tax levied pursuant to § 58.1-320 or 58.1-400 for income attributable to his trade or business during the taxable year. The amount of the credit shall be 25 percent if such self-employed individual was in a military pay status for 65 days or more during such taxable year or 15 percent if such self-employed individual was in a military pay status for more than 44 days but fewer than 65 days during such taxable year. The credit shall not be allowed if such self-employed individual was in a military pay status for fewer than 45 days during such taxable year. No credit shall be allowed pursuant to this subdivision if an employer claimed a tax credit pursuant to subdivision 1 for the same National Guard member.

C. The amount of the credit claimed shall not exceed the total amount of tax imposed pursuant to § 58.1-320 or 58.1-400 upon the employer for the taxable year.

INTRODUCED

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