

DEPARTMENT OF TAXATION

2011 Fiscal Impact Statement

1. **Patron** Barbara J. Comstock

3. **Committee** House Finance

4. **Title** Individual and Corporate Income Tax: Credit
for Telework Expenses

2. **Bill Number** HB 2197

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would create an individual and corporate income tax credit for employers who incur eligible telework expenses. The credit would be equal to the eligible telework expenses incurred during the 2012 and 2013 calendar years, not to exceed \$50,000 per employer. The maximum amount of expenses that could be used in determining the amount of the credit would be \$1,200 per employee.

This bill would also create an individual and corporate income tax credit for employers who conduct telework assessments. This credit would be equal to the costs of preparing the assessment, but would be limited to \$20,000. In addition, this credit could only be claimed one time by an employer.

The amount of these credits would not be allowed to exceed the tax liability of the taxpayer. To be eligible for either of the above credits, the employer would not be allowed to deduct the qualified expenses in any taxable year. The taxpayer would also not be eligible for this tax credit if any other income tax credit was also claimed.

The total aggregate amount of credits approved by the Tax Commissioner would not be allowed to exceed \$1 million for credits earned in taxable years 2012 and 2013. Taxpayers would be required to apply to the Department of Taxation for an allocation of the credit. If the applications for the credit exceeded the cap, the credits would be allocated to employers on a pro rata basis.

The effective date of this bill would be for taxable years beginning on and after January 1, 2012 but before January 1, 2014. However, taxpayers would be required to apply for the credits between September 1 and October 31 of the year proceeding the taxable year for which the tax credit is to be earned.

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This bill is an Executive bill.

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

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

7b. Revenue Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2010-11	\$0	GF
2011-12	\$0	GF
2012-13	(\$1 million)	GF
2013-14	(\$1 million)	GF
2014-15	\$0	GF
2015-16	\$0	GF
2016-17	\$0	GF

8. Fiscal implications:

Administrative Costs

The Department of Taxation considers implementation of this bill as “routine,” and does not require additional funding.

Revenue Impact

The negative impact of this bill on General Fund revenue is not known. The reduction, however, could not exceed the annual \$1 million cap in either Fiscal Year 2013 or Fiscal Year 2014.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Current Law

Under federal law, ordinary and necessary business expenses may be deducted. An “ordinary expense” is one that is common and accepted in the trade or business. A “necessary expense” is one that is helpful and appropriate for the trade or business. An expense does not have to be indispensable to be considered necessary. Any such deduction for federal income tax purposes would also flow through to the Virginia income tax return. To the extent that telework expenses or telework assessment expenses would qualify as ordinary and necessary expenses for federal income tax purposes, such expenses would flow through on the Virginia income tax return.

Proposal

To further encourage businesses to promote teleworking, this bill would create an individual and corporate income tax credit for employers who incur eligible telework expenses. The credit would be equal to the eligible telework expenses incurred during the

2012 and 2013 calendar years, not to exceed \$50,000 per employer. The maximum amount of expenses that could be used in determining the amount of the credit would be \$1,200 per employee.

This bill would also create an individual and corporate income tax credit for employers who conduct telework assessments. This credit would be equal to the costs of preparing the assessment, but would be limited to \$20,000. In addition, this credit could only be claimed one time by an employer.

The amount of these credits would not be allowed to exceed the tax liability of the taxpayer. To be eligible for either of the above credits, the employer would not be allowed to deduct the qualified expenses in any taxable year. The taxpayer would also not be eligible for this tax credit if any other income tax credit was also claimed.

The total amount of credits that could be granted in taxable years 2012 and 2013 would be limited to \$1 million. Taxpayers would be required to apply to the Department of Taxation for an allocation of the credit. The application would be required to be filed between September 1 and October 31 of the year proceeding the taxable year for which the tax credit was to be earned. The Department of Taxation would be required to provide tentative approval by December 31. If the applications for the credit exceeded the cap, the credits would be allocated to employers on a pro rata basis.

The Department of Taxation would be required to promulgate rules and forms regarding standards for eligibility and the process of applications.

Any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company would be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

The effective date of this bill would be for taxable years beginning on and after January 1, 2012, but before January 1, 2014. However, taxpayers would be required to apply for the credits beginning on September 1, 2011.

Governor McDonnell's Commission on Government Reform & Restructuring found teleworking to be a valuable tool that is utilized in the private sector and could be expanded further in Virginia's government. The Commission reported that state employees have reported increased job satisfaction and morale, increased productivity and savings in commuting costs. This bill would encourage Virginia's businesses to establish and expand telework programs for their employees.

Similar Bill

Senate Bill 1335 is identical to this bill.

cc : Secretary of Finance

Date: 1/27/2011 dtm
HB2197F161