

VIRGINIA ACTS OF ASSEMBLY -- 2012 RECONVENED SESSION

CHAPTER 837

An Act to amend and reenact § 58.1-439.20 of the Code of Virginia, relating to the Neighborhood Assistance Act tax credits.

[S 680]

Approved April 18, 2012

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 the State Department 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 impoverished people to be assisted, the estimated amount to be donated to the program, and the plans for implementing the program.

B. The State Board of Social Services and the Board of Education are hereby authorized to adopt regulations (or, alternatively, guidelines in the case of the Board 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 an annual audit, review, or compilation as required by OMB Circular No. A-133 as may be applicable to nonprofit organizations be provided by the neighborhood organization as a prerequisite for approval. Such regulations or guidelines *by the Board of Education* shall ~~also~~ provide that at least 50 percent of the persons served by the neighborhood organization are impoverished people as defined in § 58.1-439.18 *and such regulations by the State Board of Social Services shall provide that at least 40 percent of the persons served by the neighborhood organization are low-income persons as defined in § 58.1-439.18.* Such regulations or guidelines shall provide for the equitable allocation of the available amount of tax credits among the approved proposals submitted by neighborhood organizations. The regulations or guidelines shall also provide that at least 10 percent of the available amount of tax credits each year shall be allocated to qualified programs proposed by neighborhood organizations not receiving allocations in the preceding year; however, if the amount of tax credits for qualified programs requested by such neighborhood organizations is less than 10 percent of the available amount of tax credits, the unallocated portion of such 10 percent of the available amount of tax credits shall be allocated to qualified programs proposed by other neighborhood organizations.

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

Notwithstanding any other provision of law, (i) no more than an aggregate of \$0.5 million in tax credits shall be approved in a fiscal year to a neighborhood organization or to a grouping of neighborhood organization affiliates for all education proposals, and (ii) no more than an aggregate of \$0.5 million in tax credits shall be approved in a fiscal year to a neighborhood organization or to a grouping of neighborhood organization affiliates for all other proposals combined.

D. The total amount of tax credits granted for programs approved under this article for each fiscal year shall not exceed \$11.9 million allocated as follows: \$4.9 million for education proposals for approval by the Superintendent of Public Instruction and \$7 million for all other proposals for approval by the Commissioner of the State Department of Social Services. If the amount of tax credits requested by neighborhood organizations and approved by the Superintendent for education proposals is less than \$4.9 million, then the balance of such amount shall be allocated to programs for approval by the Commissioner of the State Department of Social Services. The Superintendent and the Commissioner of the State Department of Social Services shall work cooperatively for purposes of ensuring that neighborhood organization proposals are submitted to the proper state agency. The Superintendent and the Commissioner of the State Department of Social Services may request the assistance of the Department of Taxation for purposes of determining whether or not 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 or the Department 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 or the Department of Education shall be final and not subject to review or appeal.

F. The issuance of tax credits under this article shall expire on July 1, 2014.