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HOUSE BILL NO. 1023

Offered January 11, 2012

Prefiled January 11, 2012

A BILL to amend the Code of Virginia by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12:11, relating to tax credits for employing individuals who have been released from incarceration for conviction of a felony.

Patron—Englin

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 58.1-439.12:11 as follows:

§ 58.1-439.12:11. Tax credit for employing individuals released from incarceration for conviction of a felony.

A. For taxable years beginning on or after January 1, 2012, but before January 1, 2017, a taxpayer shall be allowed a credit against the tax levied pursuant to § 58.1-320 or 58.1-400 for each new full-time job created by the taxpayer (i) paying an annual salary of at least \$50,000, and (ii) that has been filled by an individual released from incarceration. The amount of the credit for the taxable year shall be \$500 for each new full-time job paying an annual salary of at least \$50,000 for which the taxpayer hires an individual released from incarceration.

The credit shall be allowed for the first taxable year in which the new full-time job is continuously filled throughout the year by an individual released from incarceration and for each of the four succeeding taxable years provided the job is continuously filled throughout the respective year by an individual released from incarceration. However, no credit shall be allowed under this section for the taxable year if the number of full-time jobs for which the taxpayer is the employer for the taxable year is less than the base year employment.

B. As used in this section, unless the context requires a different meaning:

"Base year employment" means the average annual number of full-time jobs for which the taxpayer is the employer for the immediately preceding three taxable years of the taxpayer.

"Full-time job" means a job in the Commonwealth of an indefinite duration, for which the taxpayer is the employer and for which the standard fringe benefits are paid by the taxpayer, 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. Seasonal or temporary positions, and positions created when a job function is shifted from an existing location in the Commonwealth shall not qualify as full-time jobs.

"Individual released from incarceration" means a person currently not incarcerated and who was released from incarceration for conviction of a felony within the five years immediately preceding the date on which the person was hired into the full-time job.

C. To qualify for the tax credit provided in subsection A, a taxpayer shall demonstrate that the new full-time job was created by the taxpayer, and that such job was continuously filled in the Commonwealth during the respective taxable year.

D. A taxpayer shall not be allowed a tax credit pursuant to this section for any employee or job for which the taxpayer (i) is allowed a major business facility job tax credit pursuant to § 58.1-439, (ii) is allowed a green job creation tax credit pursuant to § 58.1-439.12:05, or (iii) receives an enterprise zone job creation grant pursuant to § 59.1-547.

E. The amount of the credit shall not exceed the total amount of tax imposed by this chapter upon the taxpayer for the taxable year. Any credit not usable for the taxable year for which the credit was allowed may be carried over for credit against the income taxes of the taxpayer in the next five succeeding taxable years or until the total amount of the tax credit has been taken, whichever is sooner.

F. Credits 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.

G. The Tax Commissioner shall develop guidelines implementing the provisions of this section. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

2. That in the month of December of 2016 the Department of Taxation shall provide a written report to the General Assembly detailing (i) the number of taxpayers that claimed a tax credit under § 58.1-439.12:11 of the Code of Virginia in each of taxable years 2012 through 2015; (ii) the

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59 total dollar amount of such credits claimed for each such taxable year; and (iii) a statement
60 explaining the public policy for the establishment of the credit.