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HOUSE BILL NO. 228

Offered January 11, 2012

Prefiled January 10, 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 a corporate income tax credit for federal government contractors entering into subcontracts with minority-owned, veteran-owned, women-owned, or qualified small businesses.*

Patrons—Habeeb, Head, Helsel and Villanueva

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 contracting with small or minority-owned, veteran-owned, or women-owned businesses.

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

"Large business" means a federal government contractor that has more than 250 full-time employees and is subject to the tax imposed by Article 10 (§ 58.1-400 et seq.).

"Minority-owned business" means a business concern that is at least 51 percent owned by African Americans, Hispanics, Asians, Pacific Islanders, or American Indians/Alaska Natives, the management and daily business operations of which are controlled by one or more African Americans, Hispanics, Asians, Pacific Islanders, or American Indians/Alaska Natives.

"Qualified subcontract" means a contract between a large business and a qualifying small business entered into on or after January 1, 2013, for the qualifying small business to conduct, as a subcontractor of the large business, government contract obligations that are the subject of a contract between the large business and the federal government. A qualified subcontract shall not be an extension of or an addendum to a contract that existed between a qualifying small business and a large business prior to such date. Each qualified subcontract shall be an arrangement for government contract obligations with compensation no less than \$250,000 for the life of the qualified subcontract.

"Qualifying small business" means a business conducting all contract obligations that are required of it pursuant to a qualified subcontract within (i) a Historically Underutilized Business Zone (HUBZone) as defined in 15 U.S.C. § 632(p) or (ii) a current enterprise zone designated pursuant to Chapter 22 (§ 59.1-279 et seq.) or 49 (§ 59.1-538 et seq.) of Title 59.1. A qualifying small business shall be one of the following: (a) a Small Business Administration qualified small business that is HUBZone certified, (b) a women-owned business, (c) a minority-owned business, or (d) a veteran-owned business.

Businesses qualifying under clause (b), (c), or (d) shall be no larger than the size standard determined by the Small Business Administration for a qualified small business having the same North American Industry Classification System.

"Veteran-owned business" means a business concern that is at least 51 percent owned by one or more veterans as defined under 38 U.S.C. § 101(2), the management and daily business operations of which are controlled by one or more veterans.

"Women-owned business" means a business concern that is at least 51 percent owned by one or more women, the management and daily business operations of which are controlled by one or more women.

B. For taxable years beginning on or after January 1, 2013, but before January 1, 2018, a large business shall be eligible for a credit against the tax imposed pursuant to § 58.1-400 equal to five percent of the amount paid by the business in the taxable year under qualified subcontracts.

C. Tax credits under this section shall be administered by the Department of Business Assistance. The Department of Business Assistance shall not issue more than \$10 million in tax credits under this section in any fiscal year of the Commonwealth. Tax credits shall be issued beginning with the Commonwealth's fiscal year starting on July 1, 2013. The Department of Business Assistance shall not issue any tax credits under this section subsequent to June 30, 2018. If the total amount of tax credits requested and approved by the Department of Business Assistance for any taxable year under this section exceeds \$10 million, the Department of Business Assistance shall allocate such credits proportionately to each large business applying for a credit under this section based on the proportion the amount each large business paid under qualified subcontracts in the taxable year bears to the total amount that all such large businesses paid under qualified subcontracts in the taxable year.

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59 D. The amount of credit that may be claimed by any large business shall not exceed the total amount
60 of tax imposed by this chapter on the business for the taxable year for which the credit is claimed. Any
61 unused credit shall not be carried forward or back to any other taxable year.

62 E. Any large business claiming a tax credit under this section shall not claim a credit under any
63 similar Virginia law for costs related to the same project.

64 F. The Department of Business Assistance, with the assistance of the Virginia Economic Development
65 Partnership and the Department of Taxation, shall develop guidelines (i) establishing procedures for
66 claiming the tax credit provided by this section and (ii) providing for the allocation of tax credits
67 among large businesses requesting credits in the event the amount of credits for which requests are
68 made for the taxable year exceeds the available amount of credits. Notwithstanding the foregoing, the
69 Department of Business Assistance shall permit an application for certification as a qualified business to
70 be filed at any time during a calendar year regardless of when the business entered into the qualified
71 subcontract. The guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).