

DEPARTMENT OF TAXATION

2012 Fiscal Impact Statement

1. **Patron** Gregory D. Habeeb

3. **Committee** House Finance

4. **Title** Income Tax: Corporate Income Tax Credit
for Federal Government Contractors

2. **Bill Number** HB 228

House of Origin:

X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would create a corporate income tax credit for certain large businesses that contract with the federal government and enter into qualified subcontracts with small businesses located in HUB zones or Enterprise Zones or are minority-owned, women-owned, or veteran-owned business. The credit would be equal to five percent of the value of new qualified subcontracts.

This bill would be effective for taxable years beginning on and after January 1, 2013, but before January 11, 2018.

6. **Budget amendment necessary:** Yes.

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ITEM: 107, Department of Business Assistance

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

7a. **Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2011-12	\$0	0	GF
2012-13	\$0	0	GF
2013-14	Unknown	1 FTE	GF
2014-15	Unknown	1 FTE	GF
2015-16	Unknown	1 FTE	GF
2016-17	Unknown	1 FTE	GF
2017-18	Unknown	1 FTE	GF

7b. Revenue Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2011-12	\$0	GF
2012-13	\$0	GF
2013-14	(\$10 Million)	GF
2014-15	(\$10 Million)	GF
2015-16	(\$10 Million)	GF
2016-17	(\$10 Million)	GF
2017-18	(\$10 Million)	GF

8. Fiscal implications:Department of Taxation Administrative Costs

The Department has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, the Department considers implementation of this bill as “routine,” and does not require additional funding.

The Department will provide specific administrative costs on any legislation that is not “routine.” Additionally, the Department will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, the Department will identify the costs at that time.

Department of Business Assistance Administrative Costs

The Department of Business Assistance would likely need to hire at least one full-time employee and would incur additional costs depending on how many corporations claim the credit.

Revenue Impact

The negative General Fund revenue impact of this bill is not known, but would be expected to be significant. The maximum negative revenue impact, however, could not exceed the \$10 million cap. It is possible that the restrictions on the size, ownership, and location of the subcontract work may limit the ability of businesses to qualify for the entire amount allowed. Credits issued in Fiscal Year 2013 are expected to be claimed on returns filed in Fiscal Year 2014. Because the total credits for the fiscal year are capped at \$10 million, the Department of Business Assistance will have to set a deadline to apply for a credit, then allocate credits if applications for more than \$10 million are received. This deadline is typically set as late as possible to maximize the opportunity for taxpayers to apply. Thus, the first credit allocations are likely to be issued in June 2014, and the first tax returns claiming these credits would be filed after July 1, 2014.

9. Specific agency or political subdivisions affected:

Department of Taxation
Department of Business Assistance

10. Technical amendment necessary: No.

11. Other comments:

Federal Law

The Historically Underutilized Business Zones (HUB Zone) program, administered by the Small Business Administration, helps small businesses in urban and rural communities gain preferential access to federal procurement opportunities. These preferences go to small businesses that maintain a principal office in a HUB Zone and employ staff who live in a HUB Zone. Small businesses that qualify for the program receive a HUB Zone certification from the Small Business Administration.

Current Virginia Small Business Incentives

The Virginia Department of Business Assistance (VDBA) provides a one-stop-service for technical assistance related to business formation, access to capital, and workforce development. VDBA works with and mentors entrepreneurs from ideas to launching their first business venture. To accomplish its objectives, VDBA provides workforce incentives, access to capital, business information, small business incubator counseling, and hosts entrepreneurial workshops statewide annually.

The Virginia Small Business Finance Authority (VSBFA) assists small businesses through a number of financing programs. VSBFA offers direct loans for fixed asset purchases to businesses, localities and Economic Development Authorities for projects of all sizes. VSBFA also offers loan guaranties and loan loss insurance programs to reduce risk to banks making it easier for financial institutions to make loans to small businesses. In addition, targeted financing programs are available for southern Virginia's tobacco region, minority-owned businesses, small manufacturers, non-profit organizations, licensed Child care and family home providers, and Virginia's tourism industry.

Under Virginia's Qualified Equity and Subordinated Debt Investments Tax Credit, an individual or corporation is allowed a tax credit for investments made in a qualified small business having annual gross revenues of no more than \$3 million engaged in the business of advanced computing, advanced materials, advanced manufacturing, agricultural technologies, biotechnology, electronic device technology, energy, environmental technology, medical device technology, nanotechnology, or any similar technology-related field.

The Virginia Enterprise Zone program, administered by the Department of Housing and Community Development, provides two grant programs available to eligible businesses that locate a facility within the zone. The Job Creation Grant program provides grants to eligible businesses for certain permanent full-time job creation exceeding a four job threshold. The Real Property Investment Grant program provides grants for qualified real property investments made in a designated Virginia Enterprise Zone by an eligible individual or business. Since the program was converted to a grant program in 2005, no new tax credits have been allowed. However, firms that had previously been allowed Enterprise Zone General Business Tax Credits are permitted to continue to claim them.

Proposal

This bill would create a corporate income tax credit for certain large businesses that contract with the federal government and enter into qualified subcontracts with small businesses located in HUB zones or Enterprise Zones or are minority-owned, women-owned, or veteran-owned business. The credit would be equal to five percent of the value of new qualified subcontracts.

The amount of these credits would not be allowed to exceed the tax liability of the taxpayer. Any unused credits would not be allowed to be carried over or back to another taxable year.

The Department of Business Assistance ("DBA") would be required to administer this credit. The total amount of credits DBA would be allowed to allocate in a fiscal year would be limited to \$10 million, beginning in Fiscal Year 2013. If the total amount of tax credits requested and approved by DBA exceed \$10 million, this bill would require DBA to allocate the credits to each large business applying for a credit based upon a proportion of the amount that each large business paid under a qualified subcontract in the taxable year.

The Department of Business Assistance would be required to allow an application for certification as a qualified business to be filed at any time during a calendar year regardless of when the business entered into the qualified subcontract.

A large business would not be allowed to claim this credit and another Virginia credit for costs related to the same project.

"Large business" would mean a federal government contractor that has more than 250 full-time employees and is subject to the corporate income tax.

"Minority-owned business" would mean 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" would mean 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" would mean a business conducting all contract obligations that are required of it pursuant to a qualified subcontract within (i) a Historically Underutilized Business Zone (HUB Zone) as defined by federal law or (ii) a current

enterprise zone designated Virginia law. 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" would mean a business concern that is at least 51 percent owned by one or more veterans as defined under federal law, the management and daily business operations of which are controlled by one or more veterans.

"Women-owned business" would mean 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.

The Department of Business Assistance, the Virginia Economic Development Partnership Authority and the Virginia Department of Taxation would be required to develop guidelines, exempt from the Administrative Process Act, that (i) establish procedures for claiming the tax credit and (ii) provide procedures for allocating tax credits in the event the amount of credits for which requests are made for the taxable year exceeds the available amount of credits.

This bill would be effective for taxable years beginning on and after January 1, 2013, but before January 11, 2018.

Similar Bills

Senate Bill 620 is identical to this bill.

Senate Bill 344 and House Bill 585 (Executive Bills) would allow an individual income tax credit for qualified investments made to qualified small businesses and are held for two years, beginning on or after January 1, 2013, but before January 1, 2015. The tax credit would be equal to 10% of the amount of the qualified investment.

Senate Bill 368 and House Bill 714 (Executive Bills) would extend the time during which the major business facility job tax credit may be taken over a two-year period from taxable years beginning January 1, 2009 through December 31, 2012, to taxable years beginning January 1, 2009 through December 31, 2014.

Senate Bill 226 and House Bill 1013 (Executive Bills) would extend the subtraction from individual and corporate income tax for capital gains from investments in qualified businesses from June 30, 2013, to June 30, 2015.

House Bill 111 would grant an individual or corporate income tax credit, equal to \$1,000, for each new full-time job, up to 50, that a small business creates in Virginia.

House Bill 191 would allow a corporate or individual income tax credit, equal to \$2,500, to a small business for each new job it creates in Virginia and fills with a graduate of a

Virginia college or university. The tax credit would be allowed in the first taxable year in which the job had been filled for at least one year. This bill would not allow a tax credit to a small business if its number of full-time jobs for the taxable year is less than the base year employment.

House Bill 228 would create a corporate income tax credit for certain large federal government contractors equal to five percent of the value of new qualified subcontracts or the increase in the existing subcontracts with small businesses located in HUB zones or Enterprise Zones or are minority-owned, women-owned, or veteran-owned business.

House Bill 335 would allow an individual and corporate income tax deduction for any income taxed as a capital gain or investment services partnership interest income for federal income tax purposes attributable to an investment in a small business held for a period of at least five years.

cc : Secretary of Finance

Date: 1/27/2012 tlg
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