DEPARTMENT OF TAXATION
2013 Fiscal Impact Statement

1. Patron Charniele L. Herring

2. Bill Number HB 1303

House of Origin:
X Introduced
_____ Substitute
_____ Engrossed

Second House:
_____ In Committee
_____ Substitute
_____ Enrolled

3. Committee House Finance

4. Title Income Tax: Small Business Tax Credit for Hiring Virginia Graduates.

5. Summary/Purpose:

This bill would allow a corporate or individual income tax credit, equal to $2,500, to a small business for each new job that it creates in Virginia and fills with a graduate of a Virginia public institution of higher education. 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.

The amount of the tax credit would not be allowed to exceed the tax liability of the taxpayer. This bill would allow any unused tax credits to be carried over for five taxable years or until the total amount of the tax credit has been taken, whichever is sooner.

The total amount of tax credits that could be granted in a fiscal year would be limited to $2 million. The Department of Taxation (the "Department") would be required to develop procedures for issuing tax credits in the event that applications for tax credits exceed $2 million in a fiscal year.

This bill would prohibit a small business from claiming this tax credit and the Green Job Creation Tax Credit for the same job or employee.

This bill would be effective for taxable years beginning on or after January 1, 2013, but before January 1, 2015.

6. Budget amendment necessary: No.

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

8. Fiscal implications:

<u>Administrative Costs</u>

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.

Revenue Impact

This bill would have a negative General Fund revenue impact, beginning in Fiscal Year 2015. However, the reduction in General Fund revenues could not exceed the $2 million cap in any fiscal year. Because a Virginia graduate must be employed for 12 months before his employer may claim the credit, very few credits would likely be granted for Taxable Year 2013.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Other States

Oklahoma
Oklahoma allows certain aerospace companies to receive a tax credit equal to ten percent of the compensation paid to an engineer during the first five years of his or her employment if the engineer graduated from an Oklahoma college. If the engineer graduated from a college outside Oklahoma, the employer would receive a tax credit equal to five percent of the compensation paid to the employee during the first five years.

Minnesota
In 2012, Minnesota's legislature failed to pass a bill which would have allowed businesses a tax credit for hiring recent college graduates. The bill would have provided businesses that hired qualified full-time employees after March 30, 2012, but before January 1, 2013, with a tax credit of $3,000 for each such employee that was hired. Further, the bill would have provided businesses that hired qualified full-time employees after December 31, 2012, but before July 1, 2013, with a tax credit of $1,500 for each such employee that was hired. "Qualified full-time employee" would have been defined as a full-time employee who has 1) has completed 12 consecutive months of service as a full-time employee for a qualified employer; 2) is a qualified unemployed veteran, a qualified unemployed recent graduate, or a qualified unemployed job seeker; and 3) is a resident of Minnesota on the date of hire.

Proposed Legislation

This bill 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 public institution of higher education. The tax credit would be allowed in the first taxable year in which the job had been continuously 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.

The amount of the tax credit would not be allowed to exceed the tax liability of the taxpayer. Any unused tax credits may be carried over for five taxable years or until the total amount of the tax credit has been taken, whichever is sooner.

The total amount of tax credits that could be granted in a fiscal year would be limited to $2 million. The Department would be required to develop procedures for issuing tax credits in the event that applications for tax credits exceed $2 million in a fiscal year.

Under this bill, a small business would have to demonstrate to the Department that the new full-time job was created by the small business and that the job was filled by a Virginia graduate continuously for one year. In order to claim the tax credit, a taxpayer would be required to apply to the Department for an allocation of the tax credit, and receive written certification from the Department that notifies the taxpayer of the amount of tax credit that may be claimed. The taxpayer would be required to attach this certification to his income tax return.

"Base year employment" would mean the average annual number of full-time jobs for which the small business is the employer for the immediately preceding three taxable years of the small business.

"Full-time job" would mean a job in the Commonwealth of an indefinite duration, for which the small business is the employer and for which the standard fringe benefits are paid by the small business, requiring a minimum of either (i) 35 hours of an employee's time per week for the entire normal year of such small business'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, would not qualify as full-time jobs.

"Small business" would mean a business that is at least 51 percent independently owned and controlled by one or more individuals who are U.S. citizens or legal resident aliens, and together with affiliates, has 75 or fewer employees, or average annual gross receipts of $10 million or less averaged over the immediately preceding three taxable years. One or more of the individual owners would be required to control both the management and daily business operations of the small business.

"Virginia graduate" would mean a person who was (i) awarded an associate's or bachelor's degree from a public institution of higher education in the Commonwealth within the three years immediately preceding the date the person was hired into a full-time job, and (ii) not an independent contractor of the small business within such three-year period.

This bill would prohibit a small business from claiming this tax credit and the Green Job Creation Tax Credit for the same job or employee.

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

This bill would require the Department to develop guidelines, exempt from the provisions of the Administrative Process Act, to implement this tax credit.

This bill would be effective for taxable years beginning on or after January 1, 2013, but before January 1, 2015.

cc : Secretary of Finance

Date: 01/09/2013 MTH
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