DEPARTMENT OF TAXATION
2014 Fiscal Impact Statement

1. Patron Christopher P. Stolle

2. Bill Number HB 896

House of Origin:
X **Introduced**
_____ **Substitute**
_____ **Engrossed**

Second House:
_____ **In Committee**
_____ **Substitute**
_____ **Enrolled**

3. Committee House Finance

4. Title Public School Renovation Tax Credit

5. Summary/Purpose:

This bill would allow an individual and corporate income tax credit to a person that completes a qualified public school renovation during the taxable year equal to 25 percent of the eligible renovation expenses. The credit would be allowed for the taxable year in which the qualified public school renovation has been completed.

The amount of credit claimed by a taxpayer could not exceed the total amount of tax imposed upon the taxpayer for the taxable year. Any credit not usable for the taxable year for which the credit was first allowed could 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 credit has been taken, whichever is sooner.

The total amount of credits that could be granted in a fiscal year would be limited to $100 million. No taxpayer would be permitted to claim more than $1 million in credits for a single taxable year.

This bill would be effective for taxable years beginning on or after January 1, 2014.

6. Budget amendment necessary: Yes.
Page 1, Revenue Estimates

7. Fiscal Impact Estimates are: Not available. (See Line 8.)

8. Fiscal implications:

Administrative Cost

The Department of Taxation ("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 an unknown negative General Fund revenue impact beginning in FY 2015. The extent of the impact would depend on the number and magnitude of qualifying projects. Based on data from the Department of Education, the average cost per project in 2011-2013 was $5,579,064. Therefore, the average project would be expected to qualify for the maximum credit of $1 million per taxpayer. The annual General Fund revenue impact could not exceed the $100 million credit cap.

9. Specific agency or political subdivisions affected:

Department of Taxation
Department of Education

10. Technical amendment necessary: No.

11. Other comments:

Federal Historic Rehabilitation Tax Credit

Under federal law, taxpayers may claim credits equal to 10 percent of the qualified rehabilitation expenditures with respect to any qualified rehabilitated building other than a certified historic structure and 20 percent of the qualified rehabilitation expenditures with respect to any certified historic structure.

For purposes of the credit, qualified rehabilitation expenditures do not include expenditures made in connection with the rehabilitation of a building which is allocable to the portion of such property which is tax-exempt use property. This prevents a taxpayer that incurs rehabilitation expenditures with respect to a public school from claiming credits for such expenditures.

Virginia Historic Rehabilitation Tax Credit

Virginia allows Historic Rehabilitation Tax Credits equal to 25 percent of the eligible expenses incurred by a taxpayer in the rehabilitation of a certified historic structure. To qualify for the credit, the cost of the rehabilitation must be equal to at least 50 percent (25 percent if the building is an owner-occupied building) of the assessed value of such building for local real estate tax purposes for the year preceding the initial expenditure of any rehabilitation expenses.

The rehabilitation work must be certified by the Virginia Department of Historic Resources and be consistent with the Secretary of the Interior's Standards for Rehabilitation. A "certified historic structure" is a property listed individually on the Virginia Landmarks

Register, or certified by the Director of the Virginia Department of Historic Resources as contributing to the historic significance of a historic district that is listed on the Virginia Landmarks Register or as meeting the criteria for listing on the Virginia Landmarks Register.

No annual or per taxpayer cap is imposed on the Historic Rehabilitation Tax Credit.

Virginia Public-Private Education Facilities and Infrastructure Act of 2002

During the 2002 Session, the General Assembly passed legislation that established the Public-Private Education Facilities and Infrastructure Act of 2002 ("the PPEA"). Under the PPEA, Virginia's counties, cities, towns and certain other public bodies may enter into agreements authorizing private entities to acquire, design, construct, improve, renovate, expand, equip, maintain or operate qualifying projects. In recognizing the need for a new qualifying project, a private entity is allowed to offer an unsolicited proposal to a public body to operate or develop the qualifying project. Conversely, a public body is allowed to identify the need for a new qualifying project, and solicit proposals from private entities to operate or develop the qualifying project.

The PPEA allows a private entity to offer financing alternatives that are not otherwise available to public bodies. These include user fees, service fees, fees and payments from third-parties, lease payments, and other financing structures not typically used by public bodies. For a city or a town, financing may be arranged in a manner that will not affect their legal debt capacity. A county's financing may be arranged in a manner that will not require a public referendum.

For purposes of the PPEA, the following projects are qualifying projects:

- Any education facility, including, but not limited to a school building, any functionally related and subordinate facility and land to a school building, and any depreciable property provided for use in a school facility that is operated as part of the public school system or as an institution of higher education;
- Any building or facility that meets a public purpose and is developed or operated by or for any public entity;
- Any improvements, together with equipment, necessary to enhance public safety and security of buildings to be principally used by a public entity;
- Utility and telecommunications and other communications infrastructure;
- A recreational facility;
- Technology infrastructure, services, and applications, including, but not limited to, telecommunications, automated data processing, word processing and management information systems, and related information, equipment, goods, and services;
- Any services designed to increase the productivity or efficiency of the responsible public entity through the use of technology or other means;
- Any technology, equipment, or infrastructure designed to deploy wireless broadband services to schools, businesses, or residential areas;
- Any improvements necessary or desirable to any unimproved locally- or state-owned real estate; or

- Any solid waste management facility that produces electric energy derived from solid waste.

Proposed Legislation

This bill would allow an individual and corporate income tax credit to a person that completes a qualified public school renovation during the taxable year equal to 25 percent of the eligible renovation expenses. The credit would be allowed for the taxable year in which the qualified public school renovation has been completed.

"Eligible renovation expenses" would be defined as expenses incurred in a qualified public school renovation, regardless of the taxable year in which the expenses have been incurred.

A "qualified public school renovation" would be defined as the renovation or retrofitting of a public school in the Commonwealth that:

- Has never received a substantial renovation or retrofitting;
- Is 40 years old or older;
- Will be used after the renovation or retrofitting as a public school; and
- Qualifies under the criteria of the Public-Private Education Facilities and Infrastructure Act.

A substantial renovation or retrofitting would not include adding or replacing HVAC and other normal upkeep.

The total amount of credits that could be granted in a fiscal year would be limited to $100 million. No taxpayer would be permitted to claim more than $1 million in credits for a single taxable year. If the total amount of allowable credits approved by the Department exceeds the credit cap, the Tax Commissioner would be required to allocate such credits on a pro rata basis.

The amount of credit claimed by a taxpayer could not exceed the total amount of tax imposed upon the taxpayer for the taxable year. Any credit not usable for the taxable year for which the credit was first allowed could 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 credit has been taken, whichever is sooner.

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 in proportion to their ownership or interest in such business entity.

No credit would be issued for any taxable year for which federal law provides that the costs of renovating or retrofitting a public school are a project or classification of expenditures for which a federal income tax credit is allowed for such year.

The Department would be required to develop and issue guidelines, exempt from the Administrative Process Act, implementing the provisions of this credit. Such guidelines would be required to include procedures for claiming the credit.

This bill would be effective for taxable years beginning on or after January 1, 2014.

cc : Secretary of Finance

Date: 1/23/2014 MTH
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