

DEPARTMENT OF TAXATION

2016 Fiscal Impact Statement

1. **Patron** Peter F. Farrell

3. **Committee** House Finance

4. **Title** Income Tax: Small Businesses; Parental
Leave Tax Credit.

2. **Bill Number** HB 33

House of Origin:

X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would create an individual and corporate income tax credit for a portion of the salary or wages paid by a small business to a full-time employee in a job within Virginia for the period for which the employee is taking parental leave. The credit would be equal to 65 percent of the first \$8,333 in salary or wages paid to each such employee for parental leave. The total amount of tax credits that could be granted in a fiscal year would be limited to \$5.5 million.

To be eligible for the credit, the small business would be required to allow full-time employees to take at least eight workweeks of paid parental leave per occurrence for (i) the birth of a child or (ii) the placement of a child with the employee for adoption. The salary or wages payable or paid for each workweek of parental leave would be required to be at least 60 percent of the employee's weekly salary or wages immediately prior to the employee taking leave. In no case will credit be allowed subsequent to 12 workweeks of parental leave. As a further condition of eligibility, the small business would be required to (i) allow a full-time employee on parental leave to enroll in or continue health insurance coverage, including family coverage, offered or otherwise made available by the business on the same terms as if the employee continued to work and (ii) award such employee with sick, vacation, and other work leave for the period during which the small business is paying them for taking parental leave on the same terms as if such employee continued to work.

This bill would be effective for taxable years beginning or after January 1, 2017, but prior to January 1, 2022.

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

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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>
2015-16	\$0	0	GF
2016-17	\$0	0	GF
2017-18	\$69,200	1	GF
2018-19	\$66,500	1	GF
2019-20	\$66,500	1	GF
2020-21	\$66,500	1	GF
2021-22	\$66,500	1	GF

7b. Revenue Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2015-16	\$0	GF
2016-17	(\$5.5 million)	GF
2017-18	(\$5.5 million)	GF
2018-19	(\$5.5 million)	GF
2019-20	(\$5.5 million)	GF
2020-21	(\$5.5 million)	GF
2021-22	(\$5.5 million)	GF

8. Fiscal implications:Administrative Costs

The Department would require additional funding of \$69,200 in Fiscal Year 2018 and \$66,500 in each fiscal year thereafter in order to implement the provisions of this bill. Such funding would include funding for one FTE to determine whether applicants qualify for the credit.

Revenue Impact

This bill would have an unknown annual negative General Fund revenue impact, beginning in Fiscal Year 2017. Because the credit is subject to an annual credit cap, the impact of this legislation would not exceed \$5.5 million.

According to data regarding the number of live births to Virginia residents, the percentage of mothers with infants who participate in the workforce, the percentage of employed women who work full time, and the percentage of workers employed by small businesses, the Department estimates that more than 10,000 working mothers could potentially receive the type of parental leave that would qualify for this credit. However, the actual impact of this legislation would depend on the number of small businesses that offer paid parental leave that would qualify for this credit, as well as the amount of paid leave provided by such businesses. The maximum tax credit per employee would be \$5,416. Accordingly, the credit cap would be reached if qualifying small business offer paid parental leave to 1,016 employees at the maximum amount of \$8,333.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Existing Virginia Job Credits

Major Business Facility Jobs Tax Credit

Individuals, estates, trusts, corporations, banks, and insurance companies may claim a Virginia tax credit if the taxpayer creates at least 50 new full-time jobs in connection with the establishment or expansion of a major business facility, and the company is engaged in a qualifying industry in Virginia. If a taxpayer is located in an enterprise zone or in an economically distressed area (as defined by the Virginia Economic Development Partnership), the threshold is reduced from 50 to 25. Tax credits will be recaptured proportionately if employment decreases during the five years following the initial credit year.

This nonrefundable tax credit is equal to \$1,000 per each qualifying new job in excess of the 50/25 job threshold. The tax credit must be claimed ratably over two taxable years, beginning with the taxable year following the year in which the facility is established or expanded, or the new qualifying jobs are added. Unused tax credits may be carried forward for the next ten taxable years.

Green Jobs Tax Credit

Individuals and corporations may claim a tax credit for each new “green job” that is created in Virginia. The nonrefundable tax credit is equal to \$500 for each position that is created and that has an annual salary of \$50,000 or more. The tax credit is allowed for the first taxable year in which the job has been filled for at least one year, and for the four succeeding taxable years in which the job is continuously filled. An individual or corporation may claim a tax credit for up to 350 green jobs.

An individual or corporation is not allowed to claim the Green Jobs Tax Credit and the Major Business Facility Jobs Tax Credit or a federal tax credit for investments in manufacturing facilities for clean energy technologies that would foster investment and job creation in clean energy manufacturing.

International Trade Facility Tax Credit

Taxpayers may claim a nonrefundable corporate income or individual income tax credit for either making capital investments in an international trade facility or for increasing jobs related to an international trade facility. The jobs portion of the International Trade Facility Tax Credit is equal to \$3,500 for each qualified full-time employee that results from increased qualified trade activities by the taxpayer. Tax credits will be recaptured proportionately if employment decreases during the five years following the initial tax

credit year. An individual or corporation is not allowed to claim the International Trade Facility Tax Credit and the Major Business Facility Jobs Tax Credit for the same qualified full-time employee.

Proposed Legislation

This bill would create an individual and corporate income tax credit for a portion of the salary or wages paid by a small business to a full-time employee in a job within Virginia for the period for which the employee is taking parental leave. The credit would be equal to 65 percent of the first \$8,333 in salary or wages paid to each such employee for parental leave. The total amount of tax credits that could be granted in a fiscal year would be limited to \$5.5 million. Any unused credit may be carried forward by the small business for seven taxable years following the tax year for which the credit was issued.

To be eligible for the credit, the small business would be required to allow full-time employees to take at least eight workweeks of paid parental leave per occurrence for (i) the birth of a child or (ii) the placement of a child with the employee for adoption. The salary or wages payable or paid for each workweek of parental leave would be required to be at least 60 percent of the employee's weekly salary or wages immediately prior to the employee taking leave. In no case will credit be allowed subsequent to 12 workweeks of parental leave. As a further condition of eligibility, the small business would be required to (i) allow a full-time employee on parental leave to enroll in or continue health insurance coverage, including family coverage, offered or otherwise made available by the business on the same terms as if the employee continued to work and (ii) award such employee with sick, vacation, and other work leave for the period during which the small business is paying them for taking parental leave on the same terms as if such employee continued to work.

For purposes of this bill, "full-time employee" would be defined as an employee in a job of an indefinite duration requiring (i) a minimum of 35 hours of an employee's time per week for the entire normal year of the employer's operations, which "normal year" must consist of at least 48 weeks or (ii) a minimum of 1,680 hours per year. This does not include any employee in a seasonal or temporary position.

"Parental leave" would mean an absence or leave from work taken by a parent (i) for the birth of his child or the placement of a child with the parent for adoption or (ii) to care for such child. Parental leave would not include any (a) leave taken subsequent to 12 months following the date of birth of the child or the date of placement with the parent for adoption or (b) leave taken for a child who is age 19 or older on the date of placement with the parent for adoption. Parental leave would be separate from any paid vacation, sick, or other paid leave.

"Small business" would mean a business that (i) has been operating for at least two full fiscal years immediately prior to the relevant taxable year, (ii) at the time of parental leave is at least 51 percent independently owned and controlled by one or more individuals who are U.S. citizens or legal resident aliens, and (iii) has, together with affiliates, fewer than 50 full-time employees for the relevant taxable year. One or more of the individual owners would control both the management and daily business operations of the small business.

This bill would be effective for taxable years beginning or after January 1, 2017, but prior to January 1, 2022.

cc : Secretary of Finance

Date: 1/19/2016 CWM
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