

DEPARTMENT OF TAXATION

2016 Fiscal Impact Statement

1. **Patron** David J. Toscano

3. **Committee** Senate Finance

4. **Title** Income Tax; Eligibility for Neighborhood
Assistance Act Tax Credits

2. **Bill Number** HB 742

House of Origin:

 Introduced

 Substitute

 Engrossed

Second House:

 X **In Committee**

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would permanently extend a provision of the Neighborhood Assistance Act that, for certain education proposals, provides a waiver for certain requirements imposed on neighborhood organizations. This provision is currently set to expire in Fiscal Year 2020. In addition, this bill would expand the waiver provision so that it is available for proposals other than education proposals.

This bill also makes some technical changes relating to the terminology used to describe the Department of Social Services and Department of Education.

The effective date of this bill is not specified.

6. **Budget amendment necessary:** No.

7. **No Fiscal Impact.** (See Line 8.)

8. **Fiscal implications:**

Administrative Costs

The Department of Taxation ("the Department"), the Department of Education, and the Department of Social Services consider implementation of this bill as routine, and do not require additional funding.

Revenue Impact

This bill would have no impact on General Fund revenue. Under current law, the total amount of tax credits that may be granted to neighborhood organizations for each fiscal year is subject to an annual fiscal year cap. The Neighborhood Assistance Act Tax Credit is currently oversubscribed. While this bill might have the effect of continuing to allow some neighborhood organizations to receive an allocation of credits that otherwise would not be, this bill would have no impact on General Fund revenue because the total amount of tax credits may not exceed the annual fiscal year cap.

9. Specific agency or political subdivisions affected:

Department of Education
Department of Social Services
Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Virginia Neighborhood Assistance Act Tax Credit

The Virginia Neighborhood Assistance Act provides an income tax credit to business firms and individuals that donate to neighborhood organizations for approved programs that benefit impoverished people. Under this Act, a neighborhood organization is allocated funding through the Neighborhood Assistance Act Program. The Department of Social Services and the Department of Education are responsible for approving programs proposed by neighborhood organizations and allocating Neighborhood Assistance Act Tax Credits to neighborhood organizations with approved programs. A business firm or individual that makes a donation to a neighborhood organization for an approved program is then eligible to receive an income tax credit from that neighborhood organization.

The amount of the credit for a business firm or individual who donates professional services is equal to 65 percent of the value of the money, property, professional services, or contracting services donated by such taxpayer to a neighborhood organization for an approved program. No credit less than \$400 may be granted to a business firm or individual who provides professional services for any donation. Therefore, a business firm or individual who provides professional services must make a donation with a value of at least \$616 to meet the minimum credit threshold, and receive an allocation of credits.

The amount of the credit for an individual who makes a monetary donation or marketable securities donation to a neighborhood organization for an approved program is equal to 65 percent of the value of such donation. To receive an allocation of credits, an individual is required to make a donation of at least \$500. For purposes of determining the amount of credits allocated to an individual, the value of the individual's donation is limited to the lesser of the actual value of the donation or \$125,000. The \$125,000 cap on the value of donations caps the credit at \$81,250 per taxpayer.

Under current law, the total amount of credits that may be granted to such neighborhood organizations for each fiscal year is subject to an annual cap in the following amounts:

	FY 2014	FY 2015	FY 2016 (and after)
Education Proposals	\$8 million	\$8.5 million	\$9 million
Other Proposals	\$7 million	\$7.5 million	\$8 million
TOTAL	\$15 million	\$16 million	\$17 million

Current law requires, among other things, that:

- At least 50 percent of the persons served by the neighborhood organization and each of its affiliates be low-income persons or eligible students with disabilities and
- At least 50 percent of the revenue of the neighborhood organization and each of its affiliates be used to provide services to low-income persons or eligible students with disabilities. For proposals other than education proposals, at least 50% of the total expenditures of the neighborhood organization and each of its affiliates must be used for low-income persons or eligible students with disabilities.
- An annual audit or review be performed of the neighborhood organization and for each of its affiliates by an independent certified public accountant. Such audit or review is to be provided to the Department of Social Services or the Department of Education, as applicable. For those neighborhood organization and affiliates with total revenues (including the value of all donations) of \$100,000 or less for the organization's most recent year ended, they must provide to the Department of Social Services or the Department of Education, as applicable, a compilation performed by an independent certified public accountant.
- A neighborhood organization and each of its affiliates must meet the definition of "neighborhood organization" under *Va Code* § 58.1-439.18. A "neighborhood organization" is defined as any local, regional or statewide organization whose primary function is providing neighborhood assistance and holding a ruling from the Internal Revenue Service of the United States Department of the Treasury that the organization is exempt from income taxation under the provisions of §§ 501(c)(3) and 501(c)(4) of the Internal Revenue Code of 1986, as amended from time to time, or any organization defined as a community action agency in the Economic Opportunity Act of 1964 (42 U.S.C. § 2701 et seq.), or any housing authority as defined in *Va Code* § 36-3.

For education proposals, current law waives the qualification that each affiliate of an applicant neighborhood organization meet the first two requirements above. Such waiver is available, provided that:

- The neighborhood organization received an allocation of credits for Fiscal Year 2012; and
- None of the affiliates of the neighborhood organization receives an allocation of tax credits for any program year of such five-year period.

Such waiver applies to tax credit allocations beginning for Fiscal Year 2015 and ending with tax credit allocations for Fiscal Year 2020.

Proposed Legislation

This bill would make the current waiver provision for education proposals permanent. Such waiver would be available, provided that:

- The neighborhood organization received an allocation of credits for Fiscal Year 2012; and
- None of the affiliates of the neighborhood organization receives an allocation of tax credits for the program year for which the neighborhood organization has submitted a proposal.

This bill further would expand the waiver provision so that it is available for proposals other than education proposals. For proposals other than education proposals, this bill would waive the qualification that each affiliate of an applicant neighborhood organization meet all four requirements described earlier. Such waiver would be available for such organizations, provided that:

- The neighborhood organization received an allocation of credits for Fiscal Year 2014; and
- None of the affiliates of the neighborhood organization receives an allocation of tax credits for the program year for which the neighborhood organization has submitted its proposal.

Such waiver would apply to tax credit allocations beginning with tax credit allocations for Fiscal Year 2017 and is available for each fiscal year thereafter.

This bill also makes some technical changes relating to the terminology used to describe the Department of Social Services and Department of Education.

The effective date of this bill is not specified.

Similar Bills

House Bill 1014 and **Senate Bill 422** would increase the annual fiscal year cap for the Neighborhood Assistance Act Tax Credit to \$22 million, with \$11 million allocated to education proposals and \$11 million allocated to other proposals. The bill also eliminates the requirement that at least 10 percent of the available amount of tax credits each year

be allocated to neighborhood organizations that did not receive allocations in the preceding year. The bill would be effective for Fiscal Year 2017, and each fiscal year thereafter.

House Bill 1252 would modify the definition of “low-income person” for the purposes of the Neighborhood Assistance Act Tax Credit by reducing the maximum amount of family annual household income that a person can have to be considered a “low-income person” from 300 percent of the current poverty guidelines to 180 percent.

House Bill 1390 would eliminate a requirement in the Neighborhood Assistance Act that 10 percent of the available amount of Neighborhood Assistance Tax Credits each year be reserved for new organizations participating in the program and would make certain other changes to how tax credit allocations are made by the Department of Education and the Department of Social Services.

cc : Secretary of Finance

Date: 2/11/2016 JJS
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