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SENATE BILL NO. 1704

Offered January 15, 2019

A BILL to amend the Code of Virginia by adding in Article 3 of Chapter 3 of Title 58.1 a section numbered 58.1-339.13, relating to individual and corporate income tax credit; employers of National Guard members and self-employed National Guard members.

Patrons—Suetterlein and Chafin

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 3 of Chapter 3 of Title 58.1 a section numbered 58.1-339.13 as follows:

§ 58.1-339.13. Tax credits for employers of National Guard members and self-employed National Guard members.

A. For purposes of this section:

"Employer" means the same as that term is defined in § 58.1-460.

"National Guard employee" means a person who is (i) an employee, as defined in § 58.1-460, of an employer and (ii) an active member of the National Guard of the Commonwealth of Virginia.

"Self-employed National Guard member" means an active member of the National Guard of the Commonwealth of Virginia who derives a substantial portion of his income from a trade or business (i) operated by the member as a sole proprietor, (ii) through which the member has attempted to earn taxable income, and (iii) for which the member has filed the appropriate Internal Revenue Service Form 1040, Schedule C or F, for the previous taxable year.

"Wages" means the same as that term is defined in § 58.1-460 and includes wages or salaries paid during the deployment of a National Guard employee.

B. 1. For taxable years beginning on and after January 1, 2019, but before January 1, 2024, an employer shall be allowed a credit against the tax levied pursuant to § 58.1-320 or 58.1-400 for wages paid to a National Guard employee during the taxable year. The amount of the credit shall be 25 percent if such employee was in a military pay status for 65 days or more during such taxable year or 15 percent if such employee was in a military pay status for more than 44 days but less than 65 days during such taxable year. The credit shall not be allowed if such employee was in a military pay status for less than 45 days during such taxable year.

2. For taxable years beginning on and after January 1, 2019, but before January 1, 2024, a self-employed National Guard member shall be allowed a credit against the tax levied pursuant to § 58.1-320 or 58.1-400 for income attributable to his trade or business during the taxable year. The amount of the credit shall be 25 percent if such employee was in a military pay status for 65 days or more during such taxable year or 15 percent if such employee was in a military pay status for more than 44 days but less than 65 days during such taxable year. The credit shall not be allowed if such employee was in a military pay status for less than 45 days during such taxable year. No credit shall be allowed pursuant to this subdivision if an employer claimed a tax credit pursuant to subdivision 1 for the same National Guard member.

C. The amount of the credit claimed shall not exceed the total amount of tax imposed pursuant to § 58.1-320 or 58.1-400 upon the employer for the taxable year. Any credit not usable for the taxable year for which the credit was first allowed may be carried over for credit against the income taxes of the employer in the next five succeeding taxable years or until the total amount of the tax credit has been taken, whichever is sooner.