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SENATE BILL NO. 1730

Offered January 16, 2019

A *BILL to amend and reenact § 58.1-439.20:1 of the Code of Virginia, relating to Neighborhood Assistance Act tax credits; qualified neighborhood organizations.*

Patrons—Deeds and Lewis; Delegates: Mullin, Pogge and Toscano

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-439.20:1 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-439.20:1. Proposals to the Department of Education; guidelines; tax credits authorized.

A. Any neighborhood organization may submit education proposals to the Superintendent of Public Instruction requesting an allocation of tax credits for use by business firms making donations to the neighborhood organization. All other neighborhood organization proposals shall be submitted to the Commissioner or Social Services pursuant to § 58.1-439.20.

The proposal shall set forth the program to be conducted by the neighborhood organization, the low-income persons or eligible students with disabilities to be assisted, the estimated amount to be donated to the program, and the plans for implementing the program.

B. 1. The Department of Education is hereby authorized to adopt guidelines for the approval or disapproval of such proposals by neighborhood organizations and for determining the value of the donations.

2. In order to be eligible to receive an allocation of tax credits pursuant to this article, a neighborhood organization shall have been in existence for at least one year. As a prerequisite for approval, neighborhood organizations with total revenues of (i) more than \$100,000 shall provide to the Department of Education an audit or review for the most recent year or (ii) \$100,000 or less shall provide to the Department of Education a compilation for the most recent year. Such audit, review, or compilation shall be performed by an independent certified public accountant. For purposes of this subdivision, "total revenues" means all revenues, including the value of all donations, for the organization's most recent year. No proposal for an allocation of tax credits shall be untimely filed solely because such audit, review, or compilation was not submitted by the neighborhood organization by the proposal filing deadline, provided that the audit, review, or compilation is submitted to the Superintendent of Public Instruction within the 30-day period immediately following such deadline.

3. In order to be eligible to receive an allocation of credits pursuant to this article, at least 50 percent of the persons served by the neighborhood organization shall be low-income persons or eligible students with disabilities and at least 50 percent of the neighborhood organization's revenues shall be used to provide services to low-income persons or to eligible students with disabilities, *either directly by the neighborhood organization or through the provision of funds to other organizations or groups providing such services*. Expenditures for teacher salaries shall count toward the requirement that at least 50 percent of revenues be used to provide services to low-income persons or to eligible students with disabilities.

4. In order for a proposal to be approved, an applicant neighborhood organization and any of its affiliates shall meet the requirements of this section and the application guidelines. However, beginning with tax credit allocations for fiscal year 2014-2015 and ending with tax credit allocations for fiscal year 2019-2020, such requirement for a proposal submitted by a neighborhood organization to the Superintendent of Public Instruction shall not apply in determining eligibility of the neighborhood organization submitting the proposal, provided that (i) the neighborhood organization otherwise meets all statutory requirements and regulations, (ii) the neighborhood organization received a fiscal year 2011-2012 allocation of neighborhood assistance tax credits, and (iii) no affiliate of the neighborhood organization submits a proposal for or receives an allocation of tax credits pursuant to this article for the program year for which the neighborhood organization has submitted its proposal.

5. The guidelines shall provide for the equitable allocation of the available amount of tax credits among the approved proposals submitted by neighborhood organizations. In any year in which the available amount of tax credits exceeds the previous year's available amount, at least 10 percent of the excess amount shall be allocated to qualified programs proposed by neighborhood organizations that did not receive any allocations in the preceding year. If the amount of tax credits requested by such neighborhood organizations is less than 10 percent of the excess amount, the unallocated portion of such 10 percent shall be allocated to qualified programs proposed by other neighborhood organizations.

C. 1. If the Superintendent of Public Instruction approves a proposal submitted by a neighborhood

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59 organization, the organization shall make the allocated tax credit amounts available to business firms
60 making donations to the approved program. A neighborhood organization shall not assign or transfer an
61 allocation of tax credits to another neighborhood organization without the approval of the Superintendent
62 of Public Instruction.

63 2. Notwithstanding any other provision of law, no more than an aggregate of \$0.825 million in tax
64 credits shall be approved in a fiscal year to a neighborhood organization or to a grouping of
65 neighborhood organization affiliates for all education proposals.

66 3. If, after the initial allocation of credits to approved proposals, the Department of Education has a
67 balance of tax credits remaining for the fiscal year that can be used or allocated by a neighborhood
68 organization for a proposal that had been approved for tax credits during the initial allocation, then the
69 Superintendent of Public Instruction shall reallocate the remaining balance of tax credits to such
70 previously approved proposals to the extent that a neighborhood organization can use or allocate
71 additional tax credits for the previously approved proposal. The \$0.825 million annual limitations for tax
72 credits approved to a grouping of neighborhood organization affiliates shall be inapplicable for such
73 reallocation of any balance of tax credits. The balance of tax credits remaining for reallocation shall
74 include the amount of any tax credits that have been granted for a proposal approved during the initial
75 allocation but for which the Superintendent of Public Instruction received notice from the neighborhood
76 organization that it will not be able to use or allocate such amount for the approved proposal.

77 D. The total amount of tax credits granted for programs approved by the Superintendent of Public
78 Instruction under this article for each fiscal year shall not exceed \$9 million for fiscal year 2015-2016
79 and each fiscal year thereafter.

80 The Superintendent of Public Instruction shall work cooperatively with the Commissioner of Social
81 Services for purposes of ensuring that neighborhood organization proposals are submitted to the proper
82 state agency. The Superintendent of Public Instruction may request the assistance of the Department of
83 Taxation for purposes of determining whether or not anticipated donations for which tax credits are
84 requested by a neighborhood organization likely qualify as a charitable donation under federal tax laws
85 and regulations.

86 E. Actions of the Superintendent of Public Instruction or the Department of Education relating to the
87 review of neighborhood organization proposals and the allocation of tax credits to proposals shall be
88 exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). Decisions of the
89 Superintendent of Public Instruction or the Department of Education shall be final and not subject to
90 review or appeal.