

DEPARTMENT OF TAXATION

2019 Fiscal Impact Statement

1. **Patron** Lashrecse D. Aird

3. **Committee** House Finance

4. **Title** Major Business Facility Job Tax Credit:
Sunset date and annual report

2. **Bill Number** HB 2003

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

The Department of Taxation ("the Department") understands that the Patron will offer technical amendments for this bill. This fiscal impact statement is drafted based on such technical amendments.

This bill would extend the sunset date of the Major Business Facility Job Tax Credit, so that it would be effective through Taxable Year 2024. The credit is currently set to expire after Taxable Year 2019.

This bill would also require the Department to publish an annual report for Taxable Year 2019 and thereafter regarding the credit. Such report would be published regardless of whether such information is classified so as to prevent the identification of particular taxpayers, reports, or returns and items.

If enacted during the 2019 Regular Session of the General Assembly, this bill would become effective July 1, 2019.

This is a Virginia Economic Development Partnership bill.

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

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

8. **Fiscal implications:**

Administrative Cost

The Virginia Economic Development Partnership ("VEDP") and the Department consider implementation of this bill as routine, and do not require additional funding.

Revenue Impact

Because the extension of the sunset date of the Major Business Facility Job Tax Credit is assumed in the official General Fund revenue forecast, this bill would have no impact on General Fund revenue. For Fiscal Year 2012 through Fiscal Year 2018, the Major Business Facility Job Tax Credit was claimed by taxpayers as follows:

| Fiscal Year | Number | Amount |
|--------------------|---------------|---------------------------|
| 2012 | 138 | \$4,297,690 |
| 2013 | 195 | \$2,773,843 |
| 2014 | 121 | \$1,310,327 |
| 2015 | 74 | \$4,109,769 |
| 2016 | 22 | \$772,996 |
| 2017 | 17 | \$6,766,397 |
| 2018 | 11 | \$1,843,973 (preliminary) |

9. Specific agency or political subdivisions affected:

Virginia Economic Development Partnership
Department of Taxation

10. Technical amendment necessary: Yes. The Department understands that the Patron intends on offering the following technical amendments:

Line 174, after other
Strike: section, this
Insert: law, such

Line 175, after Department
Strike: in a manner that prevents the identification of particular taxpayers and reports

Line 176, after classified
Insert: , so as to prevent the identification of particular taxpayers, reports, or returns and items

11. Other comments:

Current Law

Under current law, a taxpayer may claim the Major Business Facility Job 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 jobs to 25. The credit is equal to \$1,000 for each qualifying new job in excess of 50 jobs (25 jobs for a taxpayer located in an enterprise zone or economically distressed area). A "major business facility" is a company that is engaged in any business

in the Commonwealth, except a retail trade business, if such trade is the principal activity of an individual facility in the Commonwealth.

The Major Business Facility Job Tax Credit can generally 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. The amount of credit allowed cannot exceed the tax imposed for such taxable year. Any credit not used in the taxable year the credit was allowed may be carried forward for the next 10 succeeding taxable years.

In cases where the number of qualified full-time employees in any of the five years succeeding the credit year decreases below the average number of employees during the credit year, the taxpayer is required to recapture part or all of the credit by increasing the tax in such taxable years. The amount of tax increase is determined by (i) recomputing the credit which would have been earned for the original credit year, using the decreased number of qualified full-time employees and (ii) subtracting such recomputed credit from the amount of credit previously earned. In the event that the average number of qualifying full-time employees employed at a major business facility falls below the threshold of 50 (25 in economically distressed areas or enterprise zones) in any of the five taxable years succeeding the credit year, all credits earned with respect to such major business facility must be recaptured.

The Major Business Facilities Job Tax Credit is currently scheduled to expire for taxable years beginning on or after January 1, 2020.

Sunset Date of Income Tax Credits and Sales Tax Exemptions

Section 3-5.14 of the Appropriations Act provides that the General Assembly may not advance the sunset date for any existing income tax credit or sales tax exemption beyond June 30, 2022. Any new income tax credit or sales tax exemption enacted by the General Assembly prior to the 2021 Session must have a sunset date no later than June 30, 2022. This requirement does not apply to sales tax exemptions related to nonprofit entities, or to income tax credits or sales tax exemptions with sunset dates after June 30, 2022 that were enacted or advanced during the 2016 Session.

Proposed Legislation

This bill would extend the sunset date of the Major Business Facility Job Tax Credit so that it would be effective through Taxable Year 2024. The credit is currently set to expire after Taxable Year 2019.

This bill would also require the Department to publish an annual report for Taxable Year 2019 and thereafter regarding the credit. Such report would be required to include the following information:

- Locations of sites used for major business facilities for which a credit was claimed,
- North American Industry Classification System (NAICS) codes used for the major business facilities for which a credit was claimed,
- Number of qualified full time employees for whom a credit was claimed, and

- Total cost to the Commonwealth's General Fund of the credits claimed.

The Department would be required to publish the report by November 1 of each year for the 12-month period ending on the preceding December 31. Notwithstanding the statutory protections regarding the secrecy of taxpayer information, the Department would be required to publish the above information regardless of whether it is classified so as to prevent the identification of particular taxpayers, reports, or returns and items.

If enacted during the 2019 Regular Session of the General Assembly, this bill would become effective July 1, 2019.

cc : Secretary of Finance

Date: 1/15/2019 RWC
HB2003F161