

DEPARTMENT OF TAXATION

2020 Fiscal Impact Statement

1. **Patron** Kathy K.L. Tran

3. **Committee** House Finance

4. **Title** Telework Expenses Tax Credit; Expiration

2. **Bill Number** HB 1703

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would reinstate the Telework Expenses Tax Credit, which was repealed during the 2019 General Assembly Session.

This bill would also remove the requirement that taxpayers submit an application to the Department of Taxation ("the Department") to reserve credits in the year preceding the calendar year in which eligible expenses will be incurred.

This bill would be effective for taxable years beginning on and after January 1, 2020, but before January 1, 2022.

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

7. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

8. **Fiscal implications:**

Administrative Costs

The Department considers implementation of this bill as routine, and does not require additional funding.

Revenue Impact

This bill would have a negative General Fund revenue impact beginning in Fiscal Year 2021. It is unclear to what extent taxpayers would qualify for and claim this credit. The credit would be subject to an annual credit cap of \$1 million, which would limit the potential impact. The Department anticipates a lower negative revenue impact as this credit was historically underutilized before it was repealed. However, it is unclear to what extent the simpler application process that would be required by this bill would increase utilization of the credit.

The following table provides information for Fiscal Year 2012 through Fiscal Year 2019 regarding returns on which the Telework Expenses Tax Credit was claimed:

Fiscal Year	Number of Returns	Amount
2012	0	0
2013	0	0
2014	7	51,128
2015	10	112,843
2016	9	56,127
2017	7	14,734
2018	13	68,102
2019	4	5,328

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: Yes. As currently drafted this bill contains a reference to the expired Telework Expenses Tax Credit's reservation requirement. The Department understands that it is the Patron's intent to remove that requirement from the reinstated credit. Therefore, the Department recommends the following technical amendments:

Page 2, Line 75, after credits;
Insert: and

Page 2, Line 76, after employers
Strike: ; and (iii) a procedure for the cancellation and reallocation of tax credit reservations allocated to eligible employers that, after claiming the tax credits, have been determined to be ineligible for all or a portion of the tax credits

11. Other comments:

Virginia's Telework Expenses Tax Credit

The Telework Expenses Tax Credit was an individual and corporate income tax credit for employers that incurred eligible telework expenses. There were two parts to the credit. Employers could claim a credit for eligible telework expenses incurred during the calendar year, not to exceed \$1,200 per eligible teleworking employee. Employers could also claim up to \$20,000 for the costs of conducting a telework assessment. The total amount of the Telework Expenses Tax Credit claimed by an employer could not exceed \$50,000 in a calendar year. The portion of the credit for conducting a telework assessment could only be claimed once by an employer. The total amount of credits was capped at \$1 million annually.

To qualify for a credit for eligible telework expenses, the employer was required to enter into a signed telework agreement with the teleworking employee. This telework

agreement was required to be in accordance with policies set by the Department of Rail and Public Transportation.

To receive this credit, taxpayers were required to submit a reservation application to the Department between September 1 and October 31 of the year preceding the taxable year for which the tax credit was to be earned. If reservation applications for the year exceeded the \$1 million credit cap, tentative credits were allocated to taxpayers on a pro rata basis. Once an employer had actually incurred eligible expenses, it was required to submit a final application to the Department in order to actually receive a credit allocation. If applications for credit allocations exceeded the credit cap, the Department would allocate credits to taxpayers on a pro rata basis. The amount of credit claimed could not exceed the tax liability of the taxpayer and unused credit amounts could not be carried forward to future taxable years. Taxpayers could not claim this credit if any other income tax credit was also claimed or if the qualified expenses were deducted by the taxpayer in any taxable year.

During the 2019 Session, the General Assembly enacted legislation that repealed the Telework Expenses Tax Credit by moving the credit's sunset date from January 1, 2022 to January 1, 2019.

Proposed Legislation

This bill would reinstate the Telework Expenses Tax Credit, which was repealed during the 2019 General Assembly Session.

This bill would also remove the requirement that taxpayers submit an application to the Department of Taxation ("the Department") to reserve credits in the year preceding the calendar year in which eligible expenses will be incurred.

This bill would require the Department to establish policies and procedures for eligible employers to claim credits at the time such eligible employers file taxes for the previous taxable year. Such policies and procedures would be required to provide:

- The requirements to claim credits;
- A system for allocating the available amount of credits among eligible employers; and
- A procedure for the cancellation and reallocation of credit reservations allocated to eligible employers that, after claiming the credits, have been determined to be ineligible for all or a portion of the credits.

If the amount of credits claimed by eligible employers exceeds the credit cap, the Department would be required to allocate the credits to taxpayers on a pro rata basis.

This bill would amend the definition of "telework" to include work performed on a weekend or holiday, if weekend or holiday hours are regularly required by the employer.

This bill would require the Department to develop and update as necessary guidelines, exempt from the Administrative Process Act, implementing the credit.

This bill would be effective for taxable years beginning on and after January 1, 2020, but before January 1, 2022.

cc : Secretary of Finance

Date: 1/25/2020 JLOF
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