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HOUSE BILL NO. 2061

Offered January 11, 2023

Prefiled January 10, 2023

A *BILL to amend the Code of Virginia by adding in Article 13 of Chapter 3 of Title 58.1 sections numbered 58.1-439.12:13 and 58.1-439.12:14, relating to Virginia local journalism sustainability credits.*

Patrons—Lopez, Clark, Gooditis, Guzman, Kory and Simon

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 13 of Chapter 3 of Title 58.1 sections numbered 58.1-439.12:13 and 58.1-439.12:14 as follows:

§ 58.1-439.12:13. Tax credit for compensation of local journalists.

A. For purposes of this section:

"Eligible local newspaper publisher" means a business operated in Virginia whose gross receipts during the taxable year are substantially derived in the trade or business of publishing local newspapers.

"Local news journalist" means any individual who regularly gathers, collects, photographs, records, writes, or reports news or information that concerns local events or other matters of local public interest, who provides at least 100 hours of service during the taxable year to an eligible local newspaper publisher, and who earns no more than \$50,000 during the taxable year for such service.

"Local newspaper" means any print or digital publication if (i) the primary content of such publication is original content derived from primary sources and relating to news and current events, (ii) such publication primarily serves the needs of a regional or local community, (iii) the publisher of such publication employs at least one local news journalist who resides in such regional or local community, (iv) the publisher of such publication employs no more than 750 employees, and (v) such publication has been in publication for at least two years.

B. For taxable years beginning on and after January 1, 2023, but before January 1, 2028, an eligible local newspaper publisher may claim a nonrefundable credit against the tax levied pursuant to § 58.1-320 or 58.1-400 for the compensation of local news journalists. The amount of the credit shall be (i) for the first taxable year in which the credit is claimed, the lesser of 10 percent of the actual amounts paid in wages to local news journalists during such taxable year or \$5,000 and (ii) in subsequent taxable years, the lesser of five percent of the actual amounts paid in wages to local news journalists during such taxable year or \$2,500. The credit may only be claimed for the taxable year in which the eligible local newspaper publisher paid such wages to such local news journalists.

C. The total amount of tax credits available under this section for a taxable year shall not exceed \$5 million. In the event that applications for such credits exceed \$5 million for any taxable year, the Department shall allocate the credits on a pro rata basis.

D. The amount of the credit that may be claimed in any single taxable year shall not exceed the total amount of tax imposed by this chapter for that taxable year. If the amount of the credit allowed under this section exceeds the taxpayer's tax liability for the taxable year in which the eligible local newspaper publisher claims the credit, the amount that exceeds the tax liability may be carried over for credit against the income taxes of the taxpayer in the next five taxable years or until the total amount of the tax credit has been taken, whichever is sooner.

E. For purposes of this section, the amount of the credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

F. The Tax Commissioner shall develop guidelines for applying for and claiming the credit provided by this section. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

§ 58.1-439.12:14. Tax credit for advertising in local newspapers and media.

A. For purposes of this section:

"Eligible local newspaper publisher" means the same as such term is defined in § 58.1-439.12:13.

"Eligible small business" means any business whose average number of full-time employees during such taxable year was fewer than 50 and that incurred qualified local media advertising expenses during such taxable year.

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59 "Local news journalist" means the same as such term is defined in § 58.1-439.12:13.

60 "Local newspaper" means the same as such term is defined in § 58.1-439.12:13.

61 "Local radio or television station" means any broadcast radio or television station licensed by the
62 Federal Communications Commission to serve a local community.

63 "Qualified local media advertising expenses" means amounts paid or incurred by an eligible small
64 business in the ordinary course of a trade or business for advertising in a local newspaper or in a
65 broadcast of a local radio or television station during a taxable year.

66 B. For taxable years beginning on and after January 1, 2023, but before January 1, 2028, an
67 eligible small business may claim a nonrefundable credit against the tax levied pursuant to § 58.1-320
68 or 58.1-400 for qualified local media advertising expenses paid or incurred during such taxable year.
69 The amount of the credit shall be (i) for the first taxable year in which the credit is claimed, the lesser
70 of 80 percent of the actual amounts paid or incurred for qualified local media advertising expenses
71 during such taxable year or \$4,000 and (ii) for subsequent taxable years in which the credit is claimed,
72 the lesser of 50 percent of the actual amounts paid or incurred for qualified local media advertising
73 expenses during such taxable year or \$2,000. The credit may only be claimed for the taxable year in
74 which the qualified local media advertising expenses were incurred.

75 C. The total amount of tax credits available under this section for a taxable year shall not exceed
76 \$10 million. In the event that applications for such credits exceed \$10 million for any taxable year, the
77 Department shall allocate the credits on a pro rata basis.

78 D. The amount of the credit that may be claimed in any single taxable year shall not exceed the
79 total amount of tax imposed by this chapter for that taxable year. If the amount of the credit allowed
80 under this section exceeds the taxpayer's tax liability for the taxable year in which the eligible small
81 business incurred qualified local media advertising expenses, the amount that exceeds the tax liability
82 may be carried over for credit against the income taxes of the taxpayer in the next five taxable years or
83 until the total amount of the tax credit has been taken, whichever is sooner.

84 E. For purposes of this section, the amount of the credit attributable to a partnership, electing small
85 business corporation (S corporation), or limited liability company shall be allocated to the individual
86 partners, shareholders, or members, respectively, in proportion to their ownership or interest in such
87 business entities.

88 F. The Tax Commissioner shall develop guidelines for applying for and claiming the credit provided
89 by this section. Such guidelines shall be exempt from the provisions of the Administrative Process Act
90 (§ 2.2-4000 et seq.).