

23100051D

HOUSE BILL NO. 1367

Offered January 11, 2023

Prefiled July 18, 2022

A *BILL to amend the Code of Virginia by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12:13, relating to income tax credit; employer contributions to Virginia College Savings Plan accounts.*

Patron—Coyner

Committee Referral Pending

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 a section numbered 58.1-439.12:13 as follows:

§ 58.1-439.12:13. Tax credit for employer contributions to Virginia College Savings Plan accounts.

A. As used in this section:

"Not highly compensated" means a qualified employee whose income is less than Virginia's median wage, as reported by the Virginia Employment Commission, in the taxable year prior to a business's applying for the credit.

"Owner" means an individual who owns, directly or indirectly, more than a five percent interest in the business claiming the credit.

"Qualified employee" means an employee of a business eligible for a credit under this section in a full-time position requiring a minimum of 1,680 hours in a normal fiscal year of the business's operations if the standard fringe benefits are paid by the business for the employee and the employee currently resides in the Commonwealth. "Qualified employee" does not include an employee in a seasonal or temporary position and does not include an owner or relative.

"Relative" means a spouse, child, grandchild, parent, or sibling of an owner.

B. For taxable years beginning on or after January 1, 2023, but before January 1, 2028, a business shall be eligible for a nonrefundable credit against the tax levied pursuant to § 58.1-320 or 58.1-400 in an amount equal to 35 percent of expenses incurred by the business during the taxable year for contributions into a Virginia College Savings Plan account established under Chapter 7 (§ 23.1-700 et seq.) of Title 23.1, owned by a qualified employee of the business. If the employee receiving the contributions is a qualified employee, the credit shall not exceed \$500 annually per such qualified employee. If the employee receiving the contributions is a qualified employee who is not highly compensated, the credit shall not exceed \$1,000 annually per such qualified employee who is not highly compensated.

C. The total amount of tax credits available under this section for a calendar 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 contributions were made, the amount that exceeds the tax liability may be carried over for credit against the income taxes of the taxpayer in the next three taxable years or until the total amount of the tax credit has been taken, whichever is sooner. No credit under this section shall be applied retroactively to taxable years prior to the taxable year in which the contributions were made.

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

F. The Tax Commissioner, in consultation with the Virginia College Savings Plan, shall develop guidelines for 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.). The Tax Commissioner shall provide an annual report to the Chairmen of the House Committee on Finance and the Senate Committee on Finance and Appropriations on the status and implementation of the credit established by this section.

INTRODUCED

HB1367