

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 59.1-547 and 59.1-549 of the Code of Virginia, relating to the*  
3 *Enterprise Zone Grant Program; preference for allocating grant funds.*

4 [H 555]  
5 Approved

6 **Be it enacted by the General Assembly of Virginia:**

7 **1. That §§ 59.1-547 and 59.1-549 of the Code of Virginia are amended and reenacted as follows:**

8 § 59.1-547. Enterprise zone job creation grants.

9 A. As used in this section:

10 "Base year" means either of the two calendar years immediately preceding a qualified business firm's  
11 first year of grant eligibility, at the choice of the business firm.

12 "Federal minimum wage" means the minimum wage standard as currently defined by the United  
13 States Department of Labor in the Fair Labor Standards Act, 29 U.S.C. § 201 et seq. Such definition  
14 applies to permanent full-time employees paid on an hourly or wage basis. For those permanent  
15 full-time employees filling permanent full-time, salaried positions, the minimum wage is defined as the  
16 employee's annual salary divided by 52 weeks per year divided by 35 hours per week.

17 "Full month" means the number of days that a permanent full-time position must be filled in order to  
18 count in the calculation of the job creation grant amount. A full month is calculated by dividing the  
19 total number of days in the calendar year by 12. A full month for the purpose of calculating job creation  
20 grants is equivalent to 30.416666 days.

21 "Grant eligible position" means a new permanent full-time position created above the threshold  
22 number at an eligible business firm. Positions in retail, personal service or food and beverage service  
23 shall not be considered grant eligible positions.

24 "Permanent full-time position" means a job of indefinite duration at a business firm located within an  
25 enterprise zone requiring the employee to report for work within the enterprise zone; and requiring (i) a  
26 minimum of 35 hours of an employee's time per week for the entire normal year of the business firm's  
27 operation, which "normal year" must consist of at least 48 weeks, (ii) a minimum of 35 hours of an  
28 employee's time per week for the portion of the calendar year in which the employee was initially hired  
29 for or transferred to the business firm, or (iii) a minimum of 1,680 hours per year. Such position shall  
30 not include (i) seasonal, temporary or contract positions, (ii) a position created when a job function is  
31 shifted from an existing location in the Commonwealth to a business firm located within an enterprise  
32 zone, (iii) any position that previously existed in the Commonwealth, or (iv) positions created by a  
33 business that is simultaneously closing facilities in other areas of the Commonwealth.

34 "Qualified business firm" means a business firm designated as a qualified business firm by the  
35 Department pursuant to § 59.1-542.

36 "Report to work" means that the employee filling a permanent full-time position reports to the  
37 business' zone establishment on a regular basis.

38 "Subsequent base year" means the base year for calculating the number of grant eligible positions in  
39 a second or subsequent five consecutive calendar year grant period. If a second or subsequent five-year  
40 grant period is requested within two years after the previous five-year grant period, the subsequent base  
41 year will be the last grant year. The calculation of this subsequent base year employment will be  
42 determined by the number of permanent full-time positions in the preceding base year, plus the number  
43 of threshold positions, plus the number of grant eligible positions in the final year of the previous grant  
44 period. If a business firm applies for subsequent five consecutive calendar year grant periods beyond the  
45 two years immediately following the completion of the previous five-year grant period, the business firm  
46 shall use one of the two preceding calendar years as the subsequent base year, at the choice of the  
47 business firm.

48 "Threshold number" means an increase of four permanent full-time positions over the number of  
49 permanent full-time positions in the base year or subsequent base year.

50 B. A business firm shall be eligible to receive enterprise zone job creation grants for any and all  
51 years in which the business firm qualifies in the five consecutive calendar years period commencing  
52 with the first year of grant eligibility. A business firm may be eligible for subsequent five consecutive  
53 calendar year grant periods if it creates new grant eligible positions above the threshold for its  
54 subsequent base year.

55 C. The amount of the grant for which a business firm is eligible shall be calculated as follows:

56 1. Either (i) \$800 per year for up to five consecutive years for each grant eligible position that

57 during such year is paid a minimum of 200 percent of the federal minimum wage and that is provided  
58 with health benefits, or (ii) \$500 per year for up to five years for each grant eligible position that during  
59 such year is paid less than 200 percent of the federal minimum wage, but at least 175 percent of the  
60 federal minimum wage, and that is provided with health benefits. *In areas with an unemployment rate*  
61 *that is one and one-half times or more the state average, the business firm will receive \$500 per year*  
62 *for up to five years for each grant eligible position that during such year is paid at least 150 percent of*  
63 *the federal minimum wage and that is provided with health benefits. Unemployment rates used to*  
64 *determine eligibility for the reduced wage rate threshold shall be based on the most recent annualized*  
65 *unemployment data published by the Virginia Employment Commission. A business firm may receive*  
66 grants for up to a maximum of 350 grant eligible jobs annually.

67 2. Positions paying less than 175 percent of the federal minimum wage or that are not provided with  
68 health benefits shall not be eligible for enterprise zone job creation grants.

69 D. Job creation grants shall be based on a calendar year. The amount of the grant for which a  
70 qualified business firm is eligible with respect to any permanent full-time position that is filled for less  
71 than a full calendar year shall be prorated based on the number of full months worked.

72 E. The amount of the job creation grant for which a qualified business firm is eligible in any year  
73 shall not include amounts for grant eligible positions in any year other than the preceding calendar year.  
74 Job creation grants shall not be available for any calendar year prior to 2005.

75 F. Permanent full-time positions that have been used to qualify for any other enterprise zone  
76 incentive pursuant to former §§ 59.1-270 through 59.1-284.01 shall not be eligible for job creation  
77 grants and shall not be counted as a part of the minimum threshold of four new positions.

78 G. Any qualified business firm receiving an enterprise zone job creation grant under this section shall  
79 not be eligible for a major business facility job tax credit pursuant to § 58.1-439.

80 § 59.1-549. Policies and procedures for allocation of enterprise zone incentive grants.

81 A. Qualified business firms and qualified zone investors shall be eligible to receive enterprise zone  
82 incentive grants provided for in this chapter to the extent that they apply for and are approved for grant  
83 allocations through the Department.

84 B. If the sum of (i) the total amount of grants for which qualified business firms are eligible under  
85 § 59.1-547 plus (ii) the total amount of grants for which qualified zone investors are eligible under  
86 § 59.1-548 exceeds the total annual appropriation for the payment of all grants under this chapter for the  
87 relevant year, then the amount of the grant that each qualified business firm and qualified zone investor  
88 is eligible for shall be prorated in a proportional manner. *The Department shall prioritize allocations to*  
89 *fully fund the grants under § 59.1-547 with any remaining funds to be allocated to grants under*  
90 *§ 59.1-548. In such cases, the amount of the grant that each qualified zone investor is eligible for under*  
91 *§ 59.1-548 shall be prorated in a proportional manner based on the funds remaining in the annual*  
92 *appropriation after full payment of the grants under § 59.1-547.*

93 C. Qualified zone businesses and qualified zone investors shall make application to the Department  
94 each year for which they seek eligibility for enterprise zone incentive grants. Such application is to be in  
95 accordance with regulations promulgated by the Board on forms supplied by the Department and in  
96 accordance with dates specified by the Department.

97 D. The accuracy and validity of information on qualified real property investments, permanent  
98 full-time positions, wage rates and provision of health benefits provided in such applications are to be  
99 attested to by an independent certified public accountant licensed in Virginia through an agreed-upon  
100 procedures engagement conducted in accordance with attestation standards established by the American  
101 Institute of Certified Public Accountants, using procedures provided by the Department.

102 E. Applicants for enterprise zone incentive grants under this chapter must have the local zone  
103 administrator verify that the location of their business or property is in the enterprise zone using a form  
104 supplied by the Department. The local zone administrator shall make this verification in accordance with  
105 dates specified by the Department.

106 F. The Department may at any time review qualified zone businesses and qualified zone investors to  
107 assure that information provided in the application process is accurate.

108 G. Qualified zone businesses shall maintain all documentation regarding qualification for enterprise  
109 zone job creation grants for at least one year after the final year of their five-year grant period.  
110 Qualified zone investors shall maintain all documentation regarding qualification for enterprise zone  
111 incentive grants for a minimum of three years following the receipt of any grant.

112 H. Enterprise zone incentive grants that do not have adequate documentation regarding qualified real  
113 property investments, permanent full-time positions, wage rates and provision of health benefits may be  
114 subject to repayment by the qualified zone business or qualified zone investor.

115 I. Actions of the Department relating to the approval or denial of applications for enterprise zone  
116 incentive grants under this chapter shall be exempt from the provisions of the Administrative Process  
117 Act pursuant to subdivision B 4 of § 2.2-4002.