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HOUSE BILL NO. 1740

Offered January 14, 2015

Prefiled January 12, 2015

A BILL to amend and reenact §§ 59.1-542, 59.1-544, and 59.1-549 of the Code of Virginia, relating to the Enterprise Zone Grant Program.

Patron—Hodges

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 59.1-542, 59.1-544, and 59.1-549 of the Code of Virginia are amended and reenacted as follows:

§ 59.1-542. Enterprise zone designation.

A. Upon the Department's announcement of periodic zone designation competitions, the governing body of any county or city may make written application to the Department to have an area or areas declared an enterprise zone. Such application shall include a description of the area or areas to be included, the development potential of these areas, the need for special state incentives, the local incentives that shall be provided to support new economic activity, and other information that the Department deems necessary to assess requests for designation.

B. Two or more adjacent localities may file a joint application for an enterprise zone. Localities applying for a joint zone shall demonstrate a regional need for an enterprise zone and a regional impact that could not be achieved through a single jurisdiction zone. Applicants for a joint zone shall also specify what mechanisms will be used to ensure that the economic benefits of such a zone are shared among the applicant localities.

C. An enterprise zone may consist of no more than three noncontiguous areas. The aggregate size of these noncontiguous zone areas shall be specified by regulation. Localities shall be limited to three enterprise zone designations, *which in aggregate shall not exceed 10 square miles*.

D. A joint enterprise zone shall consist of no more than three noncontiguous zone areas for each participating locality. The aggregate size of these noncontiguous areas shall be specified by regulation.

E. Upon recommendation of the Director of the Department, the Governor may designate up to 30 enterprise zones in accordance with the provisions of this chapter. Such designations are to be done in coordination with the expiration of existing zones designated under earlier Enterprise Zone Program provisions. The initial round of six zone designation applications and approval may be conducted prior to adoption of final program regulations provided that the process is consistent with the provisions of this chapter. Enterprise zones shall be designated for an initial 10-year period except as provided for in subsections A and B of § 59.1-546. Upon recommendation of the Director of the Department, the Governor may renew zones for up to two five-year renewal periods. Recommendations for five-year renewals shall be based on the locality's performance of its enterprise zone responsibilities, the continued need for such a zone, and its effectiveness in creating jobs and capital investment.

F. Localities that have zone designations are responsible for providing the local incentives specified in their applications, providing timely submission of enterprise zone reports and evaluations as required by regulation, verifying that businesses and properties seeking enterprise zone incentives are physically located within their zones, and implementing an active local enterprise zone program within the context of overall economic development efforts.

§ 59.1-544. Amendment of enterprise zones; redesignation of certain joint enterprise zones.

A. Once an enterprise zone has been designated, the local government may make written application to the Department to amend the zone boundaries in accordance with the requirements of § 59.1-542. Such boundary amendments are subject to Department approval. Local governing bodies may amend their local enterprise zone incentives with the approval of the Department provided that the proposed incentive is equal to or superior to that in the original application or any previous amendment approved by the Department.

B. The Department may redesignate an existing joint enterprise zone consisting of ~~two~~ *four or more* localities for the purpose of expanding the zone provided (i) all of the local governing bodies of the localities in which the proposed redesignated zone will be located have submitted to the Department resolutions supporting the proposed redesignation and applications for redesignation of the joint enterprise zone and (ii) ~~the area of the locality added to the redesignated zone is contiguous to the existing joint enterprise zone and includes a revenue-sharing district that has experienced the loss of 900 permanent full-time positions within a 12-month period.~~

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59 C. When a county or city was previously added to an existing enterprise zone to create a joint
60 enterprise zone, the Department shall redesignate the enterprise zone when the term of the joint
61 enterprise zone expires. The duration of the enterprise zone redesignated pursuant to this subsection shall
62 be equal to the length of time the original enterprise zone existed before the county or city was added to
63 create the joint enterprise zone.

64 ~~D.~~ As used in this ~~section~~ subsection, "joint enterprise zone" means an enterprise zone located in two
65 or more adjacent localities.

66 ~~E.~~ D. Any redesignation of an existing joint enterprise zone shall be in compliance with all
67 applicable regulations promulgated by the Department.

68 **§ 59.1-549. Policies and procedures for allocation of enterprise zone incentive grants.**

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

72 B. If the sum of (i) the total amount of grants for which qualified business firms are eligible under
73 § 59.1-547 plus (ii) the total amount of grants for which qualified zone investors are eligible under
74 § 59.1-548 exceeds the total annual appropriation for the payment of all grants under this chapter for the
75 relevant year, then the amount of the grant that each qualified business firm and qualified zone investor
76 is eligible for shall be prorated in a proportional manner. The Department shall prioritize allocations to
77 fully fund the grants under § 59.1-547 with any remaining funds to be allocated to grants under
78 § 59.1-548. ~~In such cases, the amount of the grant that each qualified zone investor is eligible for under~~
79 ~~§ 59.1-548 shall be prorated in a proportional manner based on the funds remaining in the annual~~
80 ~~appropriation after full payment of the grants under § 59.1-547.~~

81 *In allocating any remaining funds for grants under § 59.1-548, the Department shall allocate no*
82 *more than \$1 million in aggregate to each county and city for the payment of all qualified zone*
83 *investors in the county or city, with the Department prorating the grants in a proportional manner to*
84 *qualified zone investors in each county and city. If funds remain after such allocation, the remaining*
85 *grant funds shall be distributed by the Department in a proportional manner to all qualified zone*
86 *investors, regardless of location, based on the total grant amount each investor was otherwise eligible*
87 *to receive.*

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

92 D. The accuracy and validity of information on qualified real property investments, permanent
93 full-time positions, wage rates and provision of health benefits provided in such applications are to be
94 attested to by an independent certified public accountant licensed in Virginia through an agreed-upon
95 procedures engagement conducted in accordance with attestation standards established by the American
96 Institute of Certified Public Accountants, using procedures provided by the Department. Business firms
97 with base year employment of 100 or fewer permanent full-time positions and that create in a
98 qualification year 25 or fewer grant eligible positions seeking to qualify for Job Creation Grants as
99 provided for in § 59.1-547 shall be exempt from the attestation requirement for that qualification year.
100 The permanent full-time positions, wage rates, and provision of health benefits of such business firms
101 shall be subject to verification 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.