

19101330D

HOUSE BILL NO. 2237

Offered January 9, 2019

Prefiled January 8, 2019

A BILL to amend and reenact § 2.2-2237.3 of the Code of Virginia, relating to economic development incentives; disclosure to public.

Patron—Webert

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-2237.3 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-2237.3. Division of Incentives; public disclosure of incentives prior to approval.

A. Within the Authority shall be created a Division of Incentives that shall be responsible for reviewing, vetting, tracking, and coordinating economic development incentives administered by or through the Authority or economic development incentives offered by the Commonwealth or a locality in conjunction with Authority-administered incentives, including those listed in § 2.2-206.2.

B. 1. For the purposes of this subsection:

"Essential terms" means the aggregate amount of incentives to be provided by the Commonwealth, how the incentives are to be allocated, the projected return on investment for the Commonwealth, the projected time frame for repayment of the incentives, the Division of Incentives' projections for the number of new jobs that will be created and the average wage of those new jobs, and any proposed agreement between the Commonwealth and the recipient of the incentives regarding the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

"New job" means employment of indefinite duration, created as a direct result of the project for which the economic development incentives are to be awarded, for which the recipient of the incentives will pay the wages and standard fringe benefits of the employee, requiring a minimum of either (i) 35 hours of the employee's time per week for the entire normal year of the firm's operations, which normal year consists of at least 48 weeks, or (ii) 1,680 hours of the employee's time per year. "New job" does not include seasonal or temporary positions, positions created when a job function is shifted from an existing location in the Commonwealth to the location of the economic development project, positions with suppliers, or multiplier or spin-off jobs.

2. No project that includes an offer of economic development incentives by the Commonwealth, including grants or loans from the Commonwealth's Development Opportunity Fund, shall be approved by the Governor ~~until~~ unless (i) the Division of Incentives has undertaken appropriate due diligence regarding the proposed project and the Secretary of Commerce and Trade has certified that the proposed incentives to be offered are appropriate based on the investment and job creation anticipated to be generated by the project and; (ii) ~~when required by § 30-310~~, the MEI Project Approval Commission has reviewed the proposed incentives, if such review is required by § 30-310; and (iii) the essential terms of the offer have been disclosed to the public no less than 21 days prior to approval.

C. Any contract or memorandum of understanding for the award of economic development incentives by the Commonwealth shall set forth the investment and job creation requirements for the payment of the incentive and shall include a stipulation that the business beneficiary of the incentives shall be liable for the repayment of all or a portion of the incentives to the Commonwealth if the business beneficiary fails to make the required investments or create the required number of jobs. For purposes of this section, an incentive awarded by the Commonwealth shall include an incentive awarded from a fund operated by the Commonwealth, including the Commonwealth's Development Opportunity Fund. If it is determined that a business beneficiary is liable for the repayment of all or a portion of an economic development incentive awarded by the Commonwealth, the Board may refer the matter to the Office of the Attorney General pursuant to § 2.2-518. Prior to the referral to the Office of the Attorney General, the Board shall direct any political subdivision that is a party to the relevant contract or memorandum of understanding to assign its rights to the Commonwealth arising under such contract or memorandum of understanding in which the business beneficiary is liable to repay all or a portion of an economic development incentive awarded by the Commonwealth. In any such matter referred to the Office of the Attorney General, a business beneficiary liable to repay all or a portion of an economic development incentive awarded by the Commonwealth shall also be liable to pay interest, administrative charges, attorney fees, and other applicable fees.

D. Notwithstanding any other provision of law, approval of the Board shall be required to grant an extension for an approved project to meet the investment and job creation requirements set forth in the

INTRODUCED

HB2237

59 contract or memorandum of understanding. Notwithstanding any other provision of law, approval of both
60 the Board and the MEI Project Approval Commission shall be required to grant any additional
61 extensions.

62 E. The Division of Incentives shall provide semiannual updates to the Board of the status and
63 progress of investment and job creation requirements for all projects for which economic development
64 incentives have been awarded, until such time as the investment and job creation requirements are met
65 or the incentives are repaid to the Commonwealth. Updates shall be provided more frequently upon the
66 request of the Board, or if deemed necessary by the Division of Incentives.

67 F. The Board shall establish a subcommittee, consisting of ex officio members of the Board
68 authorized pursuant to § 60.2-114 and federal law to receive and review employment information
69 received from the Virginia Employment Commission, in order to assist the Division of Incentives with
70 the verification of employment and wage claims of those businesses that have received incentive awards.
71 Such information shall be confidential and shall not be (i) redisclosed to other members of the Board or
72 to the public in accordance with the provisions of subdivision C 2 of § 60.2-114 or (ii) subject to
73 disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

74 G. For purposes of this section, the award of economic development incentives by the
75 Commonwealth shall include an award of funds from the Commonwealth's Development Opportunity
76 Fund, regardless of whether the contract or memorandum of understanding for the disbursement of funds
77 is with the Commonwealth or a political subdivision thereof and the business beneficiary.