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HOUSE BILL NO. 2776

Offered January 18, 2019

A BILL to amend and reenact §§ 15.2-958.2:01 and 58.1-405.1 of the Code of Virginia, relating to income tax; modification for certain companies; grants; Page County.

Patron—Gilbert

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-958.2:01 and 58.1-405.1 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-958.2:01. Grants for certain corporations and pass-through entities.

A. The counties and cities listed in subsection B may give grants or loans to any eligible company, as defined in § 58.1-405.1.

B. The counties and cities that may give grants pursuant to subsection A are:

1. The Counties of Alleghany, Bland, Buchanan, Carroll, Craig, Dickenson, Giles, Grayson, Lee, *Page*, Russell, Scott, Smyth, Tazewell, Washington, Wise, and Wythe and the Cities of Bristol, Galax, and Norton;

2. The Counties of Amelia, Appomattox, Buckingham, Charlotte, Cumberland, Halifax, Henry, Lunenburg, Mecklenburg, Nottoway, Patrick, Pittsylvania, and Prince Edward and the Cities of Danville and Martinsville;

3. The Counties of Accomack, Caroline, Essex, Gloucester, King and Queen, King William, Lancaster, Mathews, Middlesex, Northampton, Northumberland, Richmond, and Westmoreland; and

4. The Counties of Brunswick and Dinwiddie and the City of Petersburg.

§ 58.1-405.1. Eligibility of companies for apportionment modification; certification by the Virginia Economic Development Partnership Authority.

A. For purposes of this section:

"Authority" means the Virginia Economic Development Partnership Authority.

"Eligible company" means a corporation or pass-through entity, as defined in § 58.1-390.1, that does not have any existing property or payroll in Virginia as of January 1, 2018, and on or after January 1, 2018, but before January 1, 2025, (i) either (a) spends at least $5 million on new capital investment in a qualified locality or qualified localities and creates at least 10 new jobs in a qualified locality or qualified localities or (b) creates at least 50 new jobs in a qualified locality or qualified localities; (ii) is a traded-sector company; and (iii) is certified by the Authority as generating a positive fiscal impact pursuant to subsection B.

"New capital investment" means real property acquired in a qualified locality or qualified localities on or after January 1, 2018, but before January 1, 2025, and any improvements to real property in a qualified locality or qualified localities on or after January 1, 2018, but before January 1, 2025.

"New job" means a permanent, full-time position of indefinite duration that pays at least 150 percent of the minimum wage, as defined in the Virginia Minimum Wage Act (§ 40.1-28.8 et seq.), and that requires a minimum of (i) 35 hours of an employee's time a week for the entire normal year of the eligible company's operations, which normal year shall consist of at least 48 weeks, or (ii) 1,680 hours per year.

"Qualified development site" means real property that is in a locality adjacent to a qualified locality and, before January 1, 2018, either (i) was owned or partly owned by a qualified locality or an industrial development authority of which a qualified locality is a member or (ii) was owned or partly owned by a locality or industrial development authority, was leased to a private party, and was subject to a revenue-sharing agreement providing that a portion of the revenues from the lease would be distributed to a qualified locality. "Qualified development site" does not include real property that is not owned by the Commonwealth or a political subdivision thereof.

"Qualified locality" means (i) the County of Alleghany, Bland, Buchanan, Carroll, Craig, Dickenson, Giles, Grayson, Lee, *Page*, Russell, Scott, Smyth, Tazewell, Washington, Wise, or Wythe or the City of Bristol, Galax, or Norton; (ii) the County of Amelia, Appomattox, Buckingham, Charlotte, Cumberland, Halifax, Henry, Lunenburg, Mecklenburg, Nottoway, Patrick, Pittsylvania, or Prince Edward or the City of Danville or Martinsville; (iii) the County of Accomack, Caroline, Essex, Gloucester, King and Queen, King William, Lancaster, Mathews, Middlesex, Northampton, Northumberland, Richmond, or Westmoreland; or (iv) the County of Brunswick or Dinwiddie or the City of Petersburg. "Qualified locality" includes a qualified development site.

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"Traded-sector company" means a company that directly or indirectly derives more than 50 percent of its revenue from out-of-state sources.

B. 1. The Authority shall determine whether a company will generate a positive fiscal impact based on the following factors: (i) job creation; (ii) private capital investment; and (iii) anticipated additional state and local tax revenue. The Authority also shall consider the additional revenue the Commonwealth likely would expend in and for the localities if the economy in the localities continues to erode. In making its determination, the Authority shall consult with the Department regarding the revenue impact of certifying such company. The Authority shall certify a company only if it determines such company will generate a positive fiscal impact.

2. The Authority shall deny certification to any company if it determines such taxpayer has engaged in a merger, acquisition, similar business combination, name change, change in business form, or other transaction the primary purpose of which is to obtain status as an eligible company.

3. The Authority shall make an annual re-certification according to subdivision B 1, and no company shall remain an eligible company for any taxable year that the Authority does not grant re-certification.

C. Any eligible company may elect to apportion its income pursuant to the provisions of § 58.1-408, 58.1-417, 58.1-418, 58.1-419, 58.1-420, 58.1-422, 58.1-422.1, or 58.1-422.2, as applicable. However, if the entire business of an eligible company is transacted or conducted within the Commonwealth, it shall not apportion its income pursuant to this subsection but may elect to apportion its income pursuant to the provisions of § 58.1-405.