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HOUSE BILL NO. 1881

Offered January 13, 2021

Prefiled January 8, 2021

A BILL to amend and reenact § 59.1-547 of the Code of Virginia, relating to enterprise zone job creation grants.

Patrons—Heretick and Kory

Referred to Committee on Labor and Commerce

Be it enacted by the General Assembly of Virginia:

1. That § 59.1-547 of the Code of Virginia is amended and reenacted as follows:

§ 59.1-547. Enterprise zone job creation grants.

A. As used in this section:

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

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

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

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

"Minimum wage" means the federal minimum wage or the Virginia minimum wage, whichever is higher. The Department shall determine whichever is higher for the current calendar year as of December 1 of the prior calendar year, and its determination shall be continuously in effect throughout the calendar year, regardless of changes to the federal minimum wage or the Virginia minimum wage during that year.

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

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

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

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

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

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"Virginia minimum wage" means the applicable minimum wage as determined pursuant to the Virginia Minimum Wage Act (§ 40.1-28.8 et seq.).

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

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

1. Either (i) $800 per year for up to five consecutive years for each grant eligible position that during such year is paid a minimum of ~~200~~ *175* percent of the ~~federal~~ minimum wage and that is provided with health benefits, or (ii) $500 per year for up to five years for each grant eligible position that during such year is paid less than ~~200~~ *175* percent of the ~~federal~~ minimum wage, but at least ~~175~~ *150* percent of the ~~federal~~ minimum wage, and that is provided with health benefits. In areas with an unemployment rate that is one and one-half times or more the state average, *or for businesses that are certified under regulations adopted by the Director of the Department of Small Business and Supplier Diversity pursuant to subdivision 8 of § 2.2-1606,* the business firm will receive $500 per year for up to five years for each grant eligible position that during such year is paid at least ~~150~~ *125* percent of the ~~federal~~ minimum wage and that is provided with health benefits. Unemployment rates used to determine eligibility for the reduced wage rate threshold shall be based on the most recent annualized unemployment data published by the Virginia Employment Commission. A business firm may receive grants for up to a maximum of 350 grant eligible jobs annually.

2. Positions paying less than ~~175~~ *150* percent of the ~~federal~~ minimum wage or that are not provided with health benefits shall not be eligible for enterprise zone job creation grants.

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

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

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

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

2. That the provisions of this act shall become effective on January 1, 2022.