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HOUSE BILL NO. 1842

Offered January 11, 2023

Prefiled January 10, 2023

A *BILL to amend the Code of Virginia by adding in Title 2.2 a chapter numbered 27.2, consisting of sections numbered 2.2-2760 through 2.2-2763, and by adding in Title 30 a chapter numbered 48.1, consisting of sections numbered 30-318.1 through 30-318.5, relating to economic development; Virginia Business Ready Sites Acquisition Fund and Program.*

Patrons—Knight and Taylor

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 2.2 a chapter numbered 27.2, consisting of sections numbered 2.2-2760 through 2.2-2763, and by adding in Title 30 a chapter numbered 48.1, consisting of sections numbered 30-318.1 through 30-318.5, as follows:

CHAPTER 27.2.**VIRGINIA BUSINESS READY SITES ACQUISITION FUND AND PROGRAM.****§ 2.2-2760. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Authority" means the Virginia Economic Development Partnership Authority.

"Commission" means the Business Ready Site Acquisition Oversight Commission established by § 30-318.2.

"Department" means the Department of General Services.

"Development" means improvements designed to prepare a site for construction or higher use than was possible in the site's natural state or its state at the time of acquisition.

"Due diligence" means any necessary land title, valuation, environmental, engineering, or technical studies; professional or consulting services related to a site or site selection; and undertaking similar activities.

"Eligible acquisition site" means a site suitable to be marketed for economic development purposes. An eligible acquisition site shall meet, or be expected to meet, each of the following criteria: (i) the site is at least 500 contiguous acres and (ii) the site presents a significant opportunity for the Commonwealth to attract a large-scale economic development project. An eligible acquisition site shall not require any particular zoning classification.

"Fund" means the Virginia Business Ready Sites Acquisition Fund established by § 2.2-2761.

"Large-scale economic development project" means an economic development project that involves a capital investment of at least \$250 million and which creates at least 250 new jobs paying at least 100 percent of the prevailing wage for the region of the Commonwealth in which the project is located.

"Program" means the Virginia Business Ready Sites Acquisition Program established by § 2.2-2761.

"Project development agreement" means an agreement by which the Authority sells, leases, transfers, or otherwise disposes of an eligible acquisition site to a private employer for a large-scale economic development project.

"Site acquisition activities" means purchasing or optioning an eligible acquisition site for purposes of the Program, as well as any due diligence necessary to conduct such activities.

"Site development activities" means improvements designed to prepare a site for construction or higher use than was possible in the site's natural state or state at the time of acquisition. Site development activities include clearing, grading, improving drainage, constructing pads, mitigating environmental concerns, providing road or rail access to the site, securing rights-of-way and easements, extending utilities to the site, and undertaking other similar activities.

§ 2.2-2761. Virginia Business Ready Sites Acquisition Fund and Program.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Business Ready Sites Acquisition Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys appropriated by the General Assembly for the Fund, and from any other sources, public or private, shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose of disbursing moneys pursuant to the Program. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request

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59 signed by the Director of the Department, pursuant to subdivision C 2 or the Authority, pursuant to
60 subdivision C 1 or 3.

61 B. There is hereby established the Virginia Business Ready Sites Acquisition Program for the
62 purpose of disbursing moneys from the Fund to (i) acquire or option eligible acquisition sites for the
63 purpose of creating and maintaining a portfolio of project-ready sites to promote economic development
64 in all regions of the Commonwealth, (ii) conduct site development activities to improve such sites in
65 order to increase their marketability for large-scale economic development projects, or (iii) enter into
66 project development agreements with private employers for large-scale economic development projects.
67 Eligible acquisition sites may be acquired from either public or private owners, provided that any such
68 acquisition shall be made in a bona fide arm's length transaction freely entered into by the parties. Site
69 acquisition activities, site development activities, and project development agreements shall be conducted
70 in accordance with the guidelines, procedures, and objective criteria established pursuant to subsection
71 D and the objective of the Program established in § 2.2-2762.

72 C. Administration of the Program shall be conducted by the Authority in consultation with the
73 Department in the manner provided by this subsection.

74 1. The Authority, in consultation with the Department, shall be responsible for identifying potential
75 sites and initiating, on behalf of the Commonwealth and in a manner that protects the Commonwealth's
76 economic interests, the process of negotiating the purchase or optioning of a site.

77 2. The Department shall be responsible for completing the purchase or option of a site and holding
78 the property or option on behalf of the Commonwealth. The Department shall be responsible for
79 conducting all site development activities, in consultation with the Authority.

80 3. The Authority shall be responsible for marketing sites to private employers to enter into project
81 development agreements for large-scale economic development projects.

82 D. The Authority, in consultation with the Department, shall establish guidelines, procedures, and
83 objective criteria for conducting the activities described in clauses (i), (ii), and (iii) of subsection B and
84 the division of responsibilities described in subsection C. Such guidelines, procedures, and objective
85 criteria shall be designed to meet the objective of the Program described in § 2.2-2762. The preparation
86 of the guidelines shall be exempt from the requirements of Article 2 (§ 2.2-4006 et seq.) of the
87 Administrative Process Act.

88 E. Any funds received from the sale or long-term lease of properties purchased pursuant to this
89 chapter shall be deposited to the general fund.

90 F. The Authority shall report annually by November 1 on site acquisition activities, site development
91 activities, and project development agreements. The report shall include total appropriations made or
92 transferred to the Fund, total acquisitions made, number and performance of project development
93 agreements, cash balances, and balances available for future commitments. The Authority shall prepare
94 the report required by this subsection in conjunction with the reports required under § 2.2-2237.1.

95 G. The Auditor of Public Accounts or his authorized representative shall audit the accounts of the
96 Fund in accordance with generally accepted auditing standards as determined necessary by the Auditor
97 of Public Accounts. The cost of such audit services shall be borne by the Fund.

98 **§ 2.2-2762. Objective of the Program.**

99 The objective of the Program shall be to identify and fill gaps in the Commonwealth's current
100 portfolio of industrial properties available for large-scale economic development projects in order to
101 accelerate economic growth in all regions of the Commonwealth. In evaluating sites to acquire, option,
102 develop, or market for purposes of the Program, the Authority shall consider (i) the potential of the site
103 to fill a gap in the inventory of needed project-ready sites in the Commonwealth, (ii) the scope and cost
104 of the work required to make the site project ready, (iii) the potential return on investment for the
105 Commonwealth for the cost of acquiring and developing the site, and (iv) the type of industry or
106 business for which the site would be suitable.

107 **§ 2.2-2763. Review by Oversight Commission.**

108 A. 1. Before entering into an agreement to acquire or develop any site, the Authority and the
109 Department shall jointly submit a proposal detailing their plans for acquisition and development to the
110 Commission. The Commission shall review such proposal and determine whether the plan is consistent
111 with the objective described in § 2.2-2762. If the Commission finds that the proposal meets such
112 objective, the Commission shall issue a recommendation certifying its support for the proposal. If the
113 Commission finds that such proposal does not meet the objective of the Program, the Commission shall
114 communicate its findings to the Governor and to the General Assembly. In the event of a negative
115 finding, the Authority shall not implement the proposal unless the proposal, either in its original or
116 revised form, is authorized by the General Assembly at its next session and enacted into law.

117 2. Before entering into any project development agreement, the Authority shall submit a proposal
118 detailing such agreement to the Commission. The Commission shall review such proposal and determine
119 whether the proposal is consistent with the objective described in § 2.2-2762. If the Commission finds
120 that the proposal meets such objective, the Commission shall issue a recommendation certifying its

support for the proposal. If the Commission finds that such proposal does not meet the objective of the Program, the Commission shall communicate its findings to the Governor and to the General Assembly. In the event of a negative finding, the Authority shall not implement the proposal unless either (i) the Authority resubmits a revised proposal to the Commission and receives a favorable recommendation or (ii) the proposal, either in its original or revised form, is authorized by the General Assembly at its next session and enacted into law.

B. The Authority shall submit the guidelines, procedures, and objective criteria required by subsection D of § 2.2-2761, and any subsequent changes to such policies, to the Commission. The Commission may provide feedback on such guidelines, procedures, and objective criteria and recommend proposed changes to the Authority.

CHAPTER 48.1.

BUSINESS READY SITE ACQUISITION OVERSIGHT COMMISSION.

§ 30-318.1. Definitions.

For purposes of this chapter, any term defined in § 2.2-2760 shall have the same meaning as is provided by that section.

§ 30-318.2. Business Ready Site Acquisition Oversight Commission; membership; terms; compensation.

A. The Business Ready Site Acquisition Oversight Commission (the Commission) is established as a commission in the legislative branch of state government. The purpose of the Commission shall be to review the site acquisition, improvement, and development activities by the Program pursuant to § 2.2-2763.

B. The Commission shall consist of seven members as follows: the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations, the Speaker of the House of Delegates, and the President Pro Tempore of the Senate. In the event that either such committee of the General Assembly is presided over by co-chairmen, only one of the co-chairmen from that committee shall serve on the commission. In addition, the Secretary of Commerce and Trade, the Secretary of Finance, and the Secretary of Administration shall serve as ex officio, voting members of the Commission.

C. The members of the Commission shall elect a chairman and vice-chairman annually. A majority of the voting members of the Commission shall constitute a quorum. An affirmative vote of four of the seven members of the Commission and three of the four legislative members of the Commission shall be required for any endorsement or recommendation of the Commission pursuant to § 2.2-2763. The meetings of the Commission shall be held at the call of the chairman or whenever the majority of the members so request.

D. Legislative members of the Commission shall receive such compensation as provided in § 30-19.12, and nonlegislative members shall receive such compensation as provided in § 2.2-2813.

§ 30-318.3. Review of incentive packages.

A. The Commission shall review the site acquisition, improvement, and development activities by the Authority pursuant to § 2.2-2763. The purpose of the Commission in conducting such reviews shall be to provide oversight of the Program's activities to ensure they align with the objectives of the Program described § 2.2-2762. Any time a proposal of the Authority is presented to the Commission for review, materials outlining information necessary to examine the proposal shall be provided to the staffs of the House Committee on Appropriations and Senate Committee on Finance and Appropriations not less than seven business days prior to the scheduled Commission meeting.

B. The timing of any proposal pursuant to § 2.2-2763 shall be scheduled so that the Commission may, at its discretion, have up to seven days subsequent to the presentation of the proposal prior to endorsing or rejecting such proposal.

§ 30-318.4. Staff; cooperation from other state agencies.

Administrative staff support shall be provided by the staffs of the Authority and the Department. Additional assistance as needed shall be provided by the staffs of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations, the Auditor of Public Accounts, and the Division of Legislative Services.

§ 30-318.5. Commission report to General Assembly.

The chairman of the Commission shall report annually by the first day of each General Assembly regular session on all recommendations made by the Commission in the previous year.