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**HOUSE BILL NO. 1842****FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by Senator Barker  
on February 23, 2023)

(Patron Prior to Substitute—Delegate Knight)

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 2.2-2764, relating to economic development; Virginia Business Ready Sites Acquisition Fund and Program.*

**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 2.2-2764, 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 MEI Project Approval Commission established by § 30-309.*

*"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 undertaking (i) necessary land title, valuation, environmental, engineering, or technical studies; (ii) professional or consulting services related to a site or site selection; or (iii) any other 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 250 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 need not be zoned for an economic development use to be considered an eligible acquisition site.*

*"Fund" means the Virginia Business Ready Sites Acquisition Fund established by § 2.2-2762.*

*"Large-scale economic development project" means an economic development project that involves a capital investment of at least \$250 million and that creates at least 250 new jobs.*

*"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. A project development agreement shall require that the new jobs created by the large-scale economic development project pay at least 100 percent of the prevailing wage for the region of the Commonwealth in which the project is located.*

*"Region" means the same as that term is defined in § 2.2-2484.*

*"Site acquisition activities" means the completion of due diligence activities, as well as the purchasing or optioning of an eligible acquisition site for purposes of the Program.*

*"Site development activities" means development of a site. 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 Program.**

*A. There is hereby established the Virginia Business Ready Sites Acquisition Program for the purpose of disbursing moneys from the Fund to (i) acquire or option eligible acquisition sites for the purpose of creating and maintaining a portfolio of project-ready sites to promote economic development in all regions of the Commonwealth, (ii) conduct site development activities to improve such sites in order to increase their marketability for large-scale economic development projects, or (iii) enter into project development agreements with private employers for large-scale economic development projects. Eligible acquisition sites may be acquired from public or private owners, provided that any such acquisition shall be a bona fide arm's length transaction freely entered into by the parties and that such acquisition shall not involve any property or interests owned by a member of the General Assembly or by local government officials in the proposed site locality. Site acquisition activities, site development activities, and project development agreements shall be conducted in accordance with the guidelines, procedures, and objective criteria established pursuant to subsection C and the objective of the Program established in § 2.2-2763.*

*B. Administration of the Program shall be conducted by the Authority in cooperation with the*

60 Department in the manner provided by this subsection and subject to review by the Commission  
61 pursuant to § 2.2-2764.

62 1. The Authority, in cooperation with the Department, shall be responsible for identifying potential  
63 eligible acquisition sites and initiating, on behalf of the Commonwealth and in a manner that protects  
64 the Commonwealth's economic interests, the process of negotiating the purchase or option of a site. Any  
65 proposal for the purchase or option of a site shall be reviewed by the Department and approved by the  
66 Governor pursuant to § 2.2-1149 prior to review of such proposal by the Commission pursuant to  
67 § 2.2-2764 and prior to completing any such purchase or option of a site.

68 2. The Department shall be responsible for completing the purchase or option of a site and holding  
69 the property or option on behalf of the Commonwealth. The Department shall be responsible for  
70 conducting all site development activities, in cooperation with the Authority.

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

73 C. The Authority, in consultation with the Department and the Office of the Attorney General, shall  
74 establish guidelines, procedures, and objective criteria for conducting the activities described in clauses  
75 (i), (ii), and (iii) of subsection A and the division of responsibilities described in subsection B. Such  
76 guidelines, procedures, and objective criteria shall be designed to meet the objective of the Program  
77 described in § 2.2-2763 and shall be submitted to the Senate Committee on Finance and Appropriations  
78 and the House Committee on Appropriations, which may provide feedback on such guidelines,  
79 procedures, and objective criteria before they are established. The preparation of the guidelines shall be  
80 exempt from the requirements of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act.

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

83 E. Prior to the acquisition or optioning of any site pursuant to subsection B, the locality in which  
84 the site is located or such locality's economic development entity shall have a right of first refusal to  
85 acquire or option such site in lieu of the Program.

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

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

94 **§ 2.2-2762. Virginia Business Ready Sites Acquisition Fund.**

95 There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia  
96 Business Ready Sites Acquisition Fund, referred to in this section as "the Fund." The Fund shall be  
97 established on the books of the Comptroller. All moneys appropriated by the General Assembly for the  
98 Fund, and from any other sources, public or private, shall be paid into the state treasury and credited  
99 to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any  
100 moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert  
101 to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the  
102 purposes of this chapter. Expenditures and disbursements from the Fund shall be made by the State  
103 Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the  
104 Department, pursuant to subdivision B 2 of § 2.2-2761 or the Authority, pursuant to subdivision B 1 or  
105 3 of § 2.2-2761.

106 **§ 2.2-2763. Objective of the Program.**

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

115 **§ 2.2-2764. Review by MEI Commission.**

116 A. 1. Before entering into an agreement to acquire, option, or develop any site, the Authority and the  
117 Department shall jointly submit a proposal detailing their plans for acquisition and development to the  
118 Commission. The Commission shall review such proposal and determine whether the plan is consistent  
119 with the objective described in § 2.2-2763, addresses a demonstrated need of the Commonwealth, and  
120 was approved by the Governor after a recommendation from the Department pursuant to § 2.2-1149. If  
121 the Commission finds that the proposal meets such objective, addresses such need, and was approved

122 pursuant to § 2.2-1149, the Commission shall certify the proposal. If the Commission finds that such  
123 proposal does not meet the objective of the Program, does not address such need, or was not approved  
124 pursuant to § 2.2-1149, (i) the Commission shall communicate its findings to the Governor and to the  
125 General Assembly and (ii) the Authority shall not implement the proposal unless the proposal, either in  
126 its original or revised form, is authorized by the General Assembly at its next session and enacted into  
127 law.

128 2. Before entering into any project development agreement, the Authority shall submit a proposal  
129 detailing such agreement to the Commission. The Commission shall review such proposal and determine  
130 whether the proposal is consistent with the objective described in § 2.2-2763. If the Commission finds  
131 that the proposal meets such objective, the Commission shall certify the proposal. If the Commission  
132 finds that such proposal does not meet the objective of the Program, (i) the Commission shall  
133 communicate its findings to the Governor and to the General Assembly and (ii) the Authority shall not  
134 implement the proposal unless either (a) the Authority resubmits a revised proposal to the Commission  
135 and receives a favorable recommendation or (b) the proposal, either in its original or revised form, is  
136 authorized by the General Assembly at its next session and enacted into law.

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

141 C. Notwithstanding the provisions of subsection B of § 30-310, an affirmative vote by a simple  
142 majority of the legislative members of the Commission shall be sufficient to render a decision of the  
143 Commission for purposes of subsection A or B.

144 D. A project development agreement subject to review pursuant to this section shall also be subject  
145 to review pursuant to Chapter 47 (§ 30-309 et seq.) of Title 30 if the project development agreement  
146 provides incentives that exceed the review thresholds prescribed by that chapter. The value of any  
147 property sold, leased, transferred, or otherwise provided to a private employer at below fair market  
148 value as part of a project development agreement shall be included in calculating the amount of  
149 incentives for purposes of review under Chapter 47 (§ 30-309 et seq.) of Title 30.

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