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SENATE BILL NO. 393

Offered January 10, 2024

Prefiled January 9, 2024

A BILL to amend and reenact § 30-310 of the Code of Virginia, relating to MEI Project Approval Commission; board-level gender and diversity requirements.

Patrons—Pekarsky and Boysko

Referred to Committee on Finance and Appropriations

Be it enacted by the General Assembly of Virginia:**1. That § 30-310 of the Code of Virginia is amended and reenacted as follows:****§ 30-310. Review of incentive packages.**

A. 1. The Commission shall review individual incentive packages, including but not limited to packages offering tax incentives, for economic development, film, and episodic television projects (including but not limited to MEI projects) for which (i) one or more of the incentives in the incentive package is not authorized under current law or an amendment by the General Assembly is being sought to one or more currently existing incentives included as part of the incentive package, (ii) one of the incentives being sought includes a cash payment to a private sector business of more than \$3.5 million from any fund prior to any performance metrics being met by the proposed project, or (iii) the aggregate amount of incentives to be provided by the Commonwealth in the incentive package including discretionary grants, general or nongeneral funds, proceeds from bonds, rights to lease property at below fair market value, or any other incentives from the Commonwealth is in excess of \$10 million in value. Except for the value of any sales tax exemption available pursuant to subdivision 18 of § 58.1-609.3 or tax credit available pursuant to § 58.1-439.12:03, the value of any existing nondiscretionary incentives shall not be considered in calculating whether the incentives are in excess of \$10 million in value, and no review shall be required for a project if the only incentives to be provided to a potential project are nondiscretionary incentives. The Commission shall also review economic development projects in which a business relocates or expands its operations in one or more Virginia localities and simultaneously closes its operations or substantially reduces the number of its employees in another Virginia locality if the aggregate amount of incentives to be provided by the Commonwealth in the incentive package including discretionary grants, general or nongeneral funds, proceeds from bonds, rights to lease property at below fair market value, or any other incentives from the Commonwealth is in excess of \$2.5 million in value. The Commission shall recommend approval or denial of such packages and projects to the General Assembly. Factors that shall be considered by the Commission in its review shall include but not be limited to (a) return on investment; (b) the time frame for repayment of incentives to the Commonwealth; (c) average wages of the jobs created by the prospective MEI project or other economic development project; (d) the amount of capital investment that is required; ~~and~~ (e) the need for enhanced employment opportunities in the prospective location of the prospective MEI project or other economic development project; (f) *whether a board diversity disclosure statement that was submitted by the business with the proposed incentive package specifies the number and percentage of diverse directors on the board of directors of such business who self-identify as female or represent a national, racial, ethnic, indigenous or cultural minority in the country of the business's principal executive offices, such that at least 30 percent of such board of directors consists of women and historically underrepresented groups; and* (g) *whether the business commits to, upon approval by the Commission of the incentive package, annually update and submit such diversity disclosure to the Commission and the Chairs of the House Committee on Appropriations and Senate Committee on Finance and Appropriations.*

2. a. Any time a proposed individual incentive package is to be considered by the Commission, materials outlining (i) the value of the proposed incentives; (ii) assumed return on investment; (iii) the time frame for repayment of incentives to the Commonwealth; (iv) average wages of the jobs created by the prospective economic development, film, or episodic television project; (v) the amount of capital investment that is required; (vi) the need for enhanced employment opportunities in the prospective location of the prospective economic development, film, or episodic television project; (vii) the total amount of state incentives received by the sponsor of the economic development, film, or episodic television project in the past; ~~and~~ (viii) a list of all other existing, nondiscretionary incentives for which the sponsor of the economic development, film, or episodic television project may qualify; *and* (ix) *a board diversity disclosure shall be provided to the staff of the House Committee on Appropriations and Senate Committee on Finance and Appropriations not less than five business days prior to the scheduled*

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SB393

59 Commission meeting. Staff shall also be provided with an aggregate list of all discretionary incentives
60 currently committed by the Commonwealth for the next 10 years, including anticipated requests for
61 appropriations to satisfy such commitments during that time.

62 b. The timing of any request for an endorsement of a proposed individual incentive package should
63 be scheduled so that the MEI Commission could, at its discretion, have up to seven days subsequent to
64 the presentation of the incentive package prior to endorsing or rejecting such proposal.

65 c. State agencies, localities, authorities, or other political subdivisions of the Commonwealth that
66 have significant involvement in a proposed individual incentive package in terms of providing facilities
67 or regulatory support to a project or in developing the proposed individual incentive package shall
68 review the materials required by subdivision 2 and certify the accuracy of such materials prior to
69 consideration by the Commission.

70 B. An affirmative vote by four of the seven members of the Commission from the House of
71 Delegates and three of the five members of the Commission from the Senate shall be required to
72 endorse any incentive package, including but not limited to packages offering tax incentives, for
73 economic development, film, and episodic television projects (including but not limited to MEI projects)
74 for which (i) one or more of the incentives in the incentive package is not authorized under current law
75 or an amendment by the General Assembly is being sought to one or more currently existing incentives
76 included as part of the incentive package, (ii) one of the incentives being sought includes a cash
77 payment to a private sector business of more than \$3.5 million from any fund prior to any performance
78 metrics being met by the proposed project, or (iii) the aggregate amount of incentives to be provided by
79 the Commonwealth in the incentive package including discretionary grants, general or nongeneral funds,
80 proceeds from bonds, rights to lease property at below fair market value, or any other incentives from
81 the Commonwealth is in excess of \$10 million in value. Except for the value of any sales tax exemption
82 available pursuant to subdivision 18 of § 58.1-609.3 or tax credit available pursuant to § 58.1-439.12:03,
83 the value of any existing nondiscretionary incentives shall not be considered in calculating whether the
84 incentives are in excess of \$10 million in value. Such vote shall also be required to endorse any
85 economic development project in which a business relocates or expands its operations in one or more
86 Virginia localities and simultaneously closes its operations or substantially reduces the number of its
87 employees in another Virginia locality if the aggregate amount of incentives to be provided by the
88 Commonwealth in the incentive package including discretionary grants, general or nongeneral funds,
89 proceeds from bonds, rights to lease property at below fair market value, or any other incentives from
90 the Commonwealth is in excess of \$2.5 million in value. However, no vote shall be required for a
91 project if the only incentives to be provided to a potential project are nondiscretionary incentives
92 available to any qualified taxpayer under existing law.