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HOUSE BILL NO. 317

Offered January 19, 1994

A BILL to amend and reenact §§ 59.1-279 and 59.1-280 of the Code of Virginia and to repeal the second enactment of Chapter 301 of the 1992 Acts of Assembly, relating to enterprise zones; eligibility; state business income tax credit.

Patrons—Hall, Cunningham, DeBoer, Hull, Jones, J.C. and Puller; Senators: Miller, Y.B., Benedetti, Lambert and Marsh

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:**1. That §§ 59.1-279 and 59.1-280 of the Code of Virginia are amended and reenacted as follows:****§ 59.1-279. Eligibility.**

A. Any business firm may be designated a "qualified business firm" for purposes of this chapter if:

1. It (i) begins the operation of a trade or business within an enterprise zone, and (ii) during the taxable year has at least fifty percent of the gross receipts of such business firm attributable to the active conduct of such trade or business within the enterprise zone, and (iii) forty percent or more of the employees employed at the business firm's establishment or establishments located within the enterprise zone meet the criteria set forth in subdivision B (i) or B (ii) of § 59.1-274 prior to employment; or meets one of the following criteria for employment at its establishment or establishments within the enterprise zone:

a. Businesses with less than fifty employees must demonstrate that forty percent of their zone employees either are residents of the zone or have incomes below eighty percent of the median income for the jurisdiction prior to employment;

b. Businesses with between fifty and ninety-nine employees must demonstrate that thirty percent of their zone employees either are residents of the zone or have incomes below eighty percent of the median income for the jurisdiction prior to employment; or

c. Businesses with 100 or more employees must demonstrate that twenty percent of their zone employees either are residents of the zone or have incomes below eighty percent of the median income for the jurisdiction prior to employment; or

2. It (i) is actively engaged in the conduct of a trade or business in an area immediately prior to such an area being designated as an enterprise zone, and (ii) meets the requirements of subdivision 1 (ii) of this subsection, and (iii) increases the average number of full-time employees employed at the business firm's establishment or establishments located within the enterprise zone by at least ten percent over the preceding year's employment with no less than forty percent of such increase being employees meeting the criteria of subdivision B (i) or B (ii) of § 59.1-274 prior to employment provided that, where this increase totals:

a. Less than fifty employees, forty percent of the increase shall be either employees who are residents of the zone or are employees with incomes less than eighty percent of the median income for the jurisdiction prior to employment;

b. Between fifty and ninety-nine employees, thirty percent of the increase shall be either employees who are residents of the zone or are employees with incomes less than eighty percent of the median income for the jurisdiction prior to employment; or

c. One hundred or more employees, twenty percent of the increase shall be either employees who are residents of the zone or are employees with incomes less than eighty percent of the median income for the jurisdiction prior to employment.

3. For the purposes of this section, the term "full-time employee" shall mean (i) an individual employed by a business firm and who works the normal number of hours a week as required by the firm or (ii) two or more individuals who together share the same job position and together work the normal number of hours a week as required by the business firm for that one position.

B. After designation as an enterprise zone, each qualified business firm in such zone shall submit annually to the Department a statement requesting one or more of the tax incentives provided in this chapter. Such a statement shall be accompanied by an approved form supplied by the Department and completed by an independent certified public accountant licensed by the Commonwealth which states that the business firm meets the definition of a "qualified business firm." A copy of the statement submitted by each business firm to the Department shall be forwarded to the governing body of the county, city or town in which the enterprise zone is located.

C. The form referred to in subsection B of this section, prepared by an independent certified public

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60 accountant licensed by the Commonwealth, shall be prima facie evidence of the eligibility of a business
61 firm for the purposes of this section.

62 § 59.1-280. State business income tax credit.

63 A. The Department shall certify annually to the Commissioner of the Department of Taxation, or in
64 the case of public service companies to the Director of Public Service Taxation for the State Corporation
65 Commission, the applicability of the tax credit provided herein for a qualified business firm against any
66 tax due under Article 10 (§ 58.1-400 et seq.) of Chapter 3 of Title 58.1 or against any income tax,
67 franchise tax, gross receipts tax or shares tax due from a public service company, bank, bank and trust
68 company, trust company, insurance company, other than a foreign fire or casualty insurance company,
69 national bank, mutual savings bank, savings and loan association, partnership or sole proprietorship, in
70 an amount equaling eighty percent of the tax due to the Commonwealth for the first tax year and sixty
71 percent of the tax due the Commonwealth for the second tax year through the tenth tax year. *The tax*
72 *credit shall apply only to the income attributable to the conduct of business within the enterprise zone.*
73 Any tax credit not usable may not be applied to future tax years.

74 B. In addition to the provisions of subsection A of this section, the Department shall certify annually
75 to the Commissioner of the Department of Taxation, or in the case of public service companies to the
76 Director of Public Service Taxation for the State Corporation Commission, the applicability of the tax
77 credit provided herein for qualified business firms against any tax due under Article 10 (§ 58.1-400 et
78 seq.) of Chapter 3 of Title 58.1 or against any income tax, franchise tax, gross receipts tax or shares tax
79 due from a public service company, bank, bank and trust company, trust company, insurance company,
80 national bank, mutual savings bank, savings and loan association, partnership or sole proprietorship, in
81 an amount equaling: eighty percent of the unemployment tax due to the Commonwealth for the first tax
82 year on employees employed at establishments within an enterprise zone and sixty percent of such
83 unemployment tax due to the Commonwealth for the second tax year through the tenth tax year.
84 However, the sum of the tax credits which any qualified business firm may claim pursuant to this
85 section shall not exceed 100 percent of the firm's income, franchise, gross receipts or shares tax liability.
86 Any tax credit under this subsection which is not usable may be applied to future tax years but only
87 within the ten-year period established by the provisions of this section.

88 C. When a partnership or a small business corporation making an election pursuant to Subchapter S
89 of the Internal Revenue Code is eligible for a tax credit under this section, each partner or shareholder
90 shall be eligible for the tax credit provided for in this section on his individual income tax in proportion
91 to the amount of income received by that partner from the partnership, or shareholder from his
92 corporation, respectively. Any qualified business firm having taxable income from business activity, both
93 within and without the enterprise zone, shall allocate and apportion its taxable income attributable to the
94 conduct of business in accordance with the procedures contained in §§ 58.1-302 through 58.1-420. Tax
95 credits provided for in this section shall only apply to taxable income of a qualified business firm
96 attributable to the conduct of business within the enterprise zone.

97 D. *Tax credits provided for in this section shall be available to qualified businesses for ten years*
98 *regardless of when operations within an enterprise zone began.*

99 **2. That the second enactment of Chapter 301 of the 1992 Acts of Assembly is repealed.**