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SENATE BILL NO. 819

Offered January 10, 1997

A *BILL to amend and reenact § 59.1-283 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 32 of Title 58.1 an article numbered 4.2, consisting of sections numbered 58.1-3245.6 through 58.1-3245.11, relating to local enterprise zone development taxation programs.*

Patrons—Hawkins, Barry, Benedetti, Earley, Holland, Howell and Stosch

Referred to the Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That § 59.1-283 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 32 of Title 58.1 an article numbered 4.2, consisting of sections numbered 58.1-3245.6 through 58.1-3245.11, as follows:

*Article 4.2.**Local Enterprise Zone Development Taxation Program.**§ 58.1-3245.6. Definitions.*

As used in this article, unless the context clearly shows otherwise, the term or phrase:

"Base assessed value" means the assessed value of real estate or machinery and tools within a local enterprise zone as shown upon the records of the local assessing officer on January 1 of the year preceding the effective date of the ordinance establishing the local enterprise zone development taxation.

"Current assessed value" means the annual assessed value of real estate or machinery and tools in a local enterprise zone as shown upon the records of the local assessing officer.

"Enterprise zone" means an area designated by the Governor as an enterprise zone pursuant to § 59.1-274.

"Local enterprise zone" means an enterprise zone designated as a local enterprise zone by an ordinance adopted pursuant to § 58.1-3245.8.

"Tax increment" means all or a portion of the amount by which the current assessed value of real estate or machinery and tools, or both, in a local enterprise zone exceeds the base assessed value.

§ 58.1-3245.7. Promotion of development of local enterprise zones.

It is hereby found and declared that the health, safety, and welfare of the citizens of the Commonwealth are dependent upon the continual encouragement, development, growth, and expansion of the private sector within the Commonwealth and that there are certain areas in the Commonwealth that need the attention of local governments to attract private sector investment. Local government efforts to encourage private investment in areas designated by the Governor as enterprise zones will complement the efforts of the Commonwealth to stimulate business and industrial growth in such areas. It is essential to the public interest that governing bodies of counties, cities, and towns have authority to use tax increments to encourage private investment in local enterprise zones.

§ 58.1-3245.8. Adoption of local enterprise zone development taxation program.

A. The governing body of any county, city or town may adopt a local enterprise zone development taxation program by passing an ordinance designating an enterprise zone located within its boundaries as a local enterprise zone; however, an ordinance may designate an area as a local enterprise zone contingent upon the designation of the area as an enterprise zone pursuant to § 59.1-274. If the county, city, or town contains more than one enterprise zone, such ordinance may designate one or more as a local enterprise zone. If an enterprise zone is located in more than one county, city or town, the governing body may designate the portion of the enterprise zone located within its boundaries as a local enterprise zone. An ordinance designating a local enterprise zone shall provide that all or a specified percentage of the real estate taxes, machinery and tools taxes, or both, in the local enterprise zone shall be assessed, collected and allocated in the following manner:

1. The local assessing officer shall record in the appropriate books both the base assessed value and the current assessed value of the real estate or machinery and tools, or both, in the local enterprise zone.

2. Real estate taxes or machinery and tools taxes attributable to the lower of the current assessed value or base assessed value of real estate or machinery and tools located in a local enterprise zone shall be allocated by the treasurer or director of finance as they would be in the absence of such ordinance.

3. All or the specified percentage of the real estate taxes or machinery and tools taxes, or both, attributable to the increased value between (i) the current assessed value of such property and (ii) the base assessed value of such property shall be allocated by the treasurer or director of finance and paid

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60 into a special fund entitled the "Local Enterprise Zone Development Fund" to be used as provided in
61 § 58.1-3245.10.

62 B. The governing body shall hold a public hearing on the need for a local enterprise zone
63 development taxation program in the county, city or town prior to adopting a local enterprise zone
64 development taxation ordinance. Notice of the public hearing shall be published once each week for
65 three consecutive weeks immediately preceding the public hearing in each newspaper of general
66 circulation in such county, city or town. The notice shall include the time, place and purpose of the
67 public hearing; define local enterprise zone development taxation; indicate the proposed boundaries of
68 the local enterprise zone; state whether all or a specified percentage of real property or machinery or
69 tools, or both, will be subject to local enterprise zone development taxation; and describe the purposes
70 for which funds in the Local Enterprise Zone Development Fund are authorized to be used.

71 § 58.1-3245.9. Copies of local enterprise zone development taxation ordinance to local assessing
72 officer and treasurer or director of finance.

73 The governing body shall transmit to the local assessing officer and treasurer or director of finance
74 a copy of the local enterprise zone development taxation ordinance, a description of all real estate or
75 machinery and tools, or both, located within the local enterprise zone, a map indicating the boundaries
76 of the local enterprise zone and the manner of collecting and allocating real estate taxes or machinery
77 and tools taxes pursuant to this article.

78 § 58.1-3245.10. Use of funds deposited in the Local Enterprise Zone Development Fund.

79 A. Any county, city or town which adopts a local enterprise zone development taxation program may
80 use funds in the Local Enterprise Zone Development Fund for any one or more of the following
81 purposes:

82 1. To provide enhanced law-enforcement and other governmental services, including financing
83 transportation projects, as may be appropriate to secure and promote private investment in the local
84 enterprise zone;

85 2. To make grants to chambers of commerce and similar organizations within such county, city, or
86 town in order to secure and promote economic development within the local enterprise zone; or

87 3. To make grants to any industrial development authority created by the governing body pursuant to
88 Chapter 33 (§ 15.1-1373 et seq.) of Title 15.1, in order to secure and promote economic development
89 within the local enterprise zone.

90 B. Any revenues in the Local Enterprise Zone Development Fund which are not used for a purpose
91 authorized by subsection A shall be deemed "surplus funds." At the end of the tax year, all surplus funds
92 may be paid into the general fund of the county, city or town in which the local enterprise zone is
93 located.

94 § 58.1-3245.11. Dissolving the Local Enterprise Zone Development Fund.

95 The existence of a local enterprise zone shall terminate, and the Local Enterprise Zone Development
96 Fund shall dissolve, upon the earliest to occur of (i) the passage by the governing body of a ordinance
97 repealing the local enterprise zone taxation ordinance or (ii) the termination of designation of the area
98 as an enterprise zone. When the Local Enterprise Zone Development Fund is dissolved, any revenue
99 remaining in the Fund shall be paid into the general fund of the county, city or town.

100 Upon dissolving the Local Enterprise Zone Development Fund, the real estate or machinery and
101 tools, or both, shall be assessed and taxes collected in the same manner as applicable in the year
102 preceding the adoption of the local enterprise zone development taxation ordinance.

103 § 59.1-283. Local incentives.

104 A. In making an application for designation as an enterprise zone, the applying locality or localities
105 may propose local tax incentives, including, but not limited to: (i) reduction of permit fees; (ii) reduction
106 of user fees; (iii) reduction of the business, professional, and occupational license tax; and (iv) partial
107 exemption from taxation of substantially rehabilitated real estate pursuant to § 58.1-3221; and (v)
108 adoption of a local enterprise zone development taxation program pursuant to Article 4.2 (§ 58.1-3245.6
109 et seq.) of Chapter 32 of Title 58.1. The extent and duration of such incentive proposals shall conform
110 to the requirements of the Constitution of Virginia and the Constitution of the United States. In making
111 application for designation as an enterprise zone, such application may also contain proposals for
112 regulatory flexibility, including, but not limited to: (i) special zoning districts; (ii) permit process reform;
113 (iii) exemptions from local ordinances; and (iv) other public incentives proposed in the locality's
114 application, which shall be binding upon the locality upon designation of the enterprise zone.

115 B. A locality may establish eligibility criteria for local incentives for business firms that are the same
116 as, or more stringent than, the criteria for eligibility for grants or other benefits provided by this chapter.