

# DEPARTMENT OF TAXATION

## 2017 Fiscal Impact Statement

1. **Patron** Charles W. Carrico, Sr.
3. **Committee** Passed House and Senate

2. **Bill Number** SB 1328  
**House of Origin:**  
           **Introduced**  
           **Substitute**  
           **Engrossed**

4. **Title** Enterprise Zone Grants and Tax Credits;  
Qualified Real Property Improvement  
Expenditures

- Second House:**  
           **In Committee**  
           **Substitute**  
      X       **Enrolled**

**5. Summary/Purpose:**

This bill would allow otherwise qualifying expenditures to qualify for Enterprise Zone Real Property Investment Grants and Enterprise Zone Real Property Investment Tax Credits regardless of whether such expenditures are considered properly chargeable to a capital account or deductible as business expenses under federal Treasury regulations.

The effective date of this bill is not specified.

6. **Budget amendment necessary:** No.
7. **Fiscal Impact Estimates are:** Not available. (See Line 8.)
8. **Fiscal implications:**

Administrative Costs

The Department of Taxation ("the Department") and the Department of Housing and Community Development ("DHCD") consider implementation of this bill as routine, and do not require additional funding.

Revenue Impact

This bill would have an unknown impact. The most recently issued Enterprise Zone Real Property Investment Grants were prorated by 68 percent. This bill could increase eligible costs and therefore have a marginal impact on the size of grants, depending on the universe of projects that would meet the new requirements.

No taxpayers have claimed the Enterprise Zone Real Property Investment Tax Credit in recent years. However, current law allows qualified taxpayers to claim credits through Fiscal Year 2019. It is unknown whether any taxpayers would claim the credit if the definition of qualified zone improvements is expanded.

**9. Specific agency or political subdivisions affected:**

Department of Taxation  
Department of Housing and Community Development

**10. Technical amendment necessary:** No.

**11. Other comments:**

Current Law

In 1982, the General Assembly established the Virginia Enterprise Zone program to stimulate business and industrial growth in designated enterprise zones. An enterprise zone is a distinct geographical area designated by the Governor and stays in effect for 10 years from the date of zone designation. Such designations are to be done in coordination with the expiration of existing zones designated under earlier Enterprise Zone Program provisions. In 2005, the program was restructured to focus on grant funding, with language that phased out the tax credit program. The incentives currently available under the program include the Enterprise Zone Real Property Investment Tax Credit, the Enterprise Zone Business Tax Credit, and the Enterprise Zone Grant Program.

*Enterprise Zone Real Property Investment Grants*

Enterprise Zone Real Property Investment Grants may be provided for "qualified real property investments," defined as the amount properly chargeable to a capital account for improvements to rehabilitate, expand, or construct depreciable real property placed in service during the calendar year within an enterprise zone, provided that the total amount of such improvements equals or exceeds (i) \$100,000 with respect to a single building or a facility in the case of rehabilitation or expansion or (ii) \$500,000 with respect to a single building or a facility in the case of new construction.

Grant funding is equal to 20 percent of the amount of qualified real property investment in excess of \$500,000 in the case of the construction of a new building or facility. For any qualified zone investor making \$5 million or less in qualified real property investment, a real property investment grant cannot exceed \$100,000 within any five-year period for any individual building or facility. For any qualified zone investor making more than \$5 million in qualified real property investment, a real property investment grant cannot exceed \$200,000 within any five-year period for any individual building or facility.

*Enterprise Zone Real Property Investment Tax Credit*

For taxable years beginning on and after July 1, 1995, but before July 1, 2005, a qualified zone resident was allowed to claim Enterprise Zone Real Property Investment Tax Credits. For purposes of the credit, a "qualified zone resident" is defined as an owner or tenant of real property located in an enterprise zone who expands or rehabilitates such real property to facilitate the conduct of a trade or business within the enterprise zone. Qualified zone residents making qualified zone investments in excess of \$100 million that result in the creation of at least 200 permanent full-time positions ("large qualified zone residents") are permitted to continue claiming tax credits after July 1, 2015 if they initiated

use of such credits and signed agreements regarding the use of such credits by July 1, 2005.

For large qualified zone residents, the credit is equal to an amount up to five percent of qualified zone investments, as determined in an agreement between DHCD and the taxpayer. "Qualified zone investments" means the sum of qualified zone improvements and the cost of machinery, tools and equipment used in manufacturing tangible personal property within an enterprise zone. "Qualified zone improvements" means the amount properly chargeable to a capital account for improvements to rehabilitate or expand depreciable real property placed in service during the taxable year within an enterprise zone, provided that the total amount of such improvements equals or exceeds (i) \$50,000 and (ii) the assessed value of the original facility immediately prior to the rehabilitation or expansion.

DHCD must certify the nature and amount of qualified zone improvements and qualified zone investments eligible for a real property tax credit in any taxable year. The total amount of credits issued is subject to an annual cap of \$7.5 million annually until the end of Fiscal Year 2019. However, no taxpayers have claimed the credit in recent years.

### Proposal

This bill would allow otherwise qualifying expenditures to qualify for Enterprise Zone Real Property Investment Tax Credits and Enterprise Zone Real Property Investment Grants regardless of whether such expenditures are considered properly chargeable to a capital account or deductible as business expenses under federal Treasury regulations.

Companies can qualify to receive Enterprise Zone Real Property Investment Grants for "qualified real property investments," currently defined as the amount properly chargeable to a capital account for improvements to rehabilitate, expand, or construct depreciable real property placed in service during the calendar year within an enterprise zone. This bill would expand that definition of "qualified real property investments" to include qualifying expenditures regardless of whether they are considered properly chargeable to a capital account or deductible as a business expense under federal Treasury Regulations.

Similarly, this bill would amend the definition of "qualified zone improvements" for purposes of the Enterprise Zone Real Property Investment Tax Credit so that it includes improvements to rehabilitate or expand depreciable real property placed in service during the taxable year within an enterprise zone, regardless of whether such amounts are considered properly chargeable to a capital account or deductible as a business expense under federal Treasury Regulations.

The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 2/22/2017 NM  
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