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SENATE BILL NO. 1316

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Rules
on February 1, 2019)

(Patrons Prior to Substitute—Senators Hanger and Ruff [SB 1732])

A BILL to amend and reenact §§ 30-309, 30-310, 30-311, and 30-312 of the Code of Virginia, relating to the MEI Project Approval Commission.

Be it enacted by the General Assembly of Virginia:

1. That §§ 30-309, 30-310, 30-311, and 30-312 of the Code of Virginia are amended and reenacted as follows:

§ 30-309. MEI Project Approval Commission; membership; terms; compensation and expenses; definition.

A. The MEI Project Approval Commission (the Commission) is established as an advisory commission in the legislative branch of state government. The purpose of the Commission shall be to review financing for individual incentive packages, including but not limited to packages offering tax incentives, for economic development projects (including but not limited to MEI projects), *tourism projects, and film 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 or (ii) the aggregate amount of incentives to be provided by the Commonwealth in the incentive package including grants, tax incentives such as credits and exemptions *related to economic development, tourism, or the film industry*, 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. *However, no review shall be required for a project if the only incentives to be provided to a potential project are nondiscretionary tax credits or exemptions available to any qualified taxpayer under existing law.*

B. The Commission shall consist of ~~40~~ 11 members as follows: five members of the House Committee on Appropriations or the House Committee on Finance appointed by the chair of the House Committee on Appropriations and ~~three~~ four members of the Senate Committee on Finance appointed by the chair of the Senate Committee on Finance. In addition, the Secretaries of Finance and Commerce and Trade shall serve as ex officio, nonvoting members of the Commission.

C. Members shall serve terms coincident with their terms of office. Vacancies for unexpired terms shall be filled in the same manner as the original appointments. Members may be reappointed for successive terms.

D. The members of the Commission shall elect a chairman and vice-chairman annually. A majority of the voting members of the Commission shall constitute a quorum. The meetings of the Commission shall be held at the call of the chairman or whenever the majority of the members so request.

E. Legislative members of the Commission shall receive such compensation as provided in § 30-19.12, and nonlegislative members shall receive such compensation as provided in § 2.2-2813.

F. As used in this chapter, "MEI project" means the same as that term is defined in § 2.2-2260.

§ 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 projects (including but not limited to MEI projects), *tourism projects, or film 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 or (ii) the aggregate amount of incentives to be provided by the Commonwealth in the incentive package including grants, tax incentives such as credits and exemptions, 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. *However, no review shall be required for a project if the only incentives to be provided to a potential project are nondiscretionary tax credits or exemptions available to any qualified taxpayer under existing law.* 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. 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 ~~(i)~~ (a) return on investment, ~~(ii)~~ (b) the time frame for repayment of incentives to the Commonwealth, ~~(iii)~~ (c) average wages of the jobs created by the prospective MEI project or other economic development project, ~~(iv)~~ (d) the amount of capital investment that is required, and ~~(v)~~ (e) the need for enhanced employment opportunities in the prospective location of the prospective MEI project

60 or other economic development project.

61 2. a. Any time a proposed individual incentive package is to be considered by the Commission,
62 materials outlining (i) the value of the proposed incentives, (ii) assumed return on investment, (iii) the
63 time frame for repayment of incentives to the Commonwealth, (iv) average wages of the jobs created by
64 the prospective ~~MEI project or other~~ economic development, *tourism, or film* project, (v) the amount of
65 capital investment that is required, ~~and~~ (vi) the need for enhanced employment opportunities in the
66 prospective location of the prospective ~~MEI project or other~~ economic development, *tourism, or film*
67 project, (vii) *the total amount of state incentives received by the sponsor of the economic development,*
68 *tourism, or project in the past, and (viii) a list of all other existing, nondiscretionary tax credits or*
69 *exemptions for which the sponsor of the economic development, tourism, or film project may qualify*
70 shall be provided to the Commission members not less than ~~48 hours~~ *five business days* prior to the
71 scheduled Commission meeting. *The Commission shall also be provided with an aggregate list of all*
72 *discretionary incentives currently committed by the Commonwealth for the next 10 years, including*
73 *anticipated requests for appropriations to satisfy such commitments during that time.*

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

77 B. An affirmative vote by three of the five members of the Commission from the House of Delegates
78 and ~~two~~ *three* of the ~~three~~ *four* members of the Commission from the Senate shall be required to
79 endorse any incentive package, including but not limited to packages offering tax incentives, for
80 economic development projects (including but not limited to MEI projects), *tourism projects, and film*
81 *projects* for which (i) one or more of the incentives in the incentive package is not authorized under
82 current law or an amendment by the General Assembly is being sought to one or more currently
83 existing incentives included as part of the incentive package or (ii) the aggregate amount of incentives to
84 be provided by the Commonwealth in the incentive package including grants, tax incentives such as
85 credits and exemptions, general or nongeneral funds, proceeds from bonds, rights to lease property at
86 below fair market value, or any other incentives from the Commonwealth is in excess of \$10 million in
87 value. Such vote shall also be required to endorse any economic development project in which a
88 business relocates or expands its operations in one or more Virginia localities and simultaneously closes
89 its operations or substantially reduces the number of its employees in another Virginia locality. *However,*
90 *no vote shall be required for a project if the only incentives to be provided to a potential project are*
91 *nondiscretionary tax credits or exemptions available to any qualified taxpayer under existing law.*

92 **§ 30-311. Staff; cooperation from other state agencies.**

93 Administrative staff support shall be provided by the staffs of the House Committee on
94 Appropriations and the Senate Finance Committee. Additional assistance as needed shall be provided by
95 the Auditor of Public Accounts, *the Division of Legislative Services*, the Virginia Economic
96 Development Authority, or the Virginia Public Building Authority.

97 **§ 30-312. Commission report to General Assembly.**

98 The *chairman of the* Commission shall report annually by the first day of each General Assembly
99 Regular Session on all endorsed incentive packages for which an offer has been made and publicly
100 announced. Staff identified in § 30-311 shall assist the commission in preparing such report, which shall
101 contain the following information: (i) the industrial sector of the MEI project or other economic
102 development project, (ii) known competitor states, (iii) employment creation and capital investment
103 expectations, (iv) anticipated average annual wage of the new jobs, (v) local and state returns on
104 investment as prepared by the Virginia Economic Development Partnership Authority, (vi) expected time
105 frame for repayment of the incentives to the Commonwealth in the form of direct and indirect general
106 tax revenues, (vii) details of the proposed incentive package, including the breakdown of the components
107 into various uses and an expected timeline for payments, and (viii) draft legislation or amendments to
108 the Appropriation Act that propose financing for the endorsed incentive package through the Virginia
109 Public Building Authority or any other proposed funding or financing mechanisms.