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HOUSE BILL NO. 2068

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources
on February 16, 2021)

(Patron Prior to Substitute—Delegate Rasoul)

A BILL to amend and reenact §§ 3.2-303, 3.2-304, and 3.2-310 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 3.1 of Title 3.2 a section numbered 3.2-311, relating to Local Food and Community Infrastructure Grant Program.

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.2-303, 3.2-304, and 3.2-310 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 3.1 of Title 3.2 a section numbered 3.2-311 as follows:

§ 3.2-303. Definitions.

A. As used in this chapter, unless the context requires a different meaning:

"Agricultural products" means crops, livestock, and livestock products, including field crops, fruits, vegetables, horticultural specialties, cattle, sheep, hogs, goats, horses, poultry, fur-bearing animals, milk, eggs, aquaculture, commercially harvested wild fish, commercially harvested wild shellfish, and furs.

"Agriculture and forestry processing/value-added processing or value-added facilities" means any for-profit or nonprofit business that creates value-added agricultural or forestal products.

"Community infrastructure" means a facility that serves (i) smaller, newer, or limited-resource farmers, ranchers, or food entrepreneurs; (ii) farmers or ranchers using sustainable agriculture practices; or (iii) startup farms and food enterprises.

"Environmental justice community" means the same as that term is defined in § 2.2-234.

"Food hub" means a business or organization that actively manages the aggregation, distribution, and marketing of food products primarily from local and regional producers to strengthen such producers' ability to satisfy wholesale, retail, and institutional demand.

"Forestal products" means saw timber, pulpwood, posts, firewood, Christmas trees, and other tree and wood products for sale or for farm use.

"Fund" means the Governor's Agriculture and Forestry Industries Development Fund established pursuant to § 3.2-304.

"Local Grant Program" means the Local Food and Community Infrastructure Grant Program established pursuant to § 3.2-311.

"New job" means employment of an indefinite duration, created as the direct result of the private investment, for which the firm pays the wages and standard fringe benefits for its employee, requiring a minimum of either (i) 35 hours of the employee's time a week for the entire normal year of the firm's operations, which "normal year" shall consist of at least 48 weeks, or (ii) 1,680 hours per year. Seasonal or temporary positions, positions created when a job function is shifted from an existing location in the Commonwealth to the location of the economic development project, positions with suppliers, and multiplier or spin-off jobs shall not qualify as new jobs. The term "new job" shall include positions with contractors provided that all requirements included within the definition of the term are met.

"Planning Grant Program" means the Agriculture and Forestry Industries Development Planning Grant Program established pursuant to § 3.2-310.

"Prevailing average wage" means that amount determined by the Virginia Employment Commission to be the average wage paid workers in the city or county of the Commonwealth where the economic development project is located. The prevailing average wage shall be determined without regard to any fringe benefits.

"Private investment" means the private investment required under this chapter.

"Program" means the Agriculture and Forestry Industries Development Planning Grant Program established pursuant to § 3.2-310.

"Sustainable agriculture" means an integrated system of plant and animal production practices having a site-specific application that will over the long term (i) satisfy human food and fiber needs; (ii) enhance environmental quality and the natural resource base upon which the agricultural economy depends; (iii) make the most efficient use of nonrenewable resources and on-farm resources and integrate, where appropriate, natural biological cycles and controls; (iv) sustain the economic viability of farm operations; and (v) enhance the quality of life for farmers and society as a whole.

"Underserved community" means a community, including an urban, rural, or Indian tribal community, that has (i) limited access to affordable, healthy food, including fresh fruits and vegetables, in grocery retail stores or farmer-to-consumer direct markets and (ii) a high rate of hunger or food insecurity or a high poverty rate. An "underserved community" shall be (a) a census tract determined to

60 *be a Low-Income and Low-Supermarket-Access Census Tract by the U.S. Department of Agriculture in*
61 *its Food Access Research Atlas or (b) a census tract that is adjacent to such Low-Income and*
62 *Low-Supermarket-Access Census Tract and has a median family income less than or equal to 120*
63 *percent of the applicable Area Median Family Income.*

64 "Value-added agricultural or forestal products" means any agricultural or forestal product that (i) has
65 undergone a change in physical state; (ii) was produced in a manner that enhances the value of the
66 agricultural commodity or product; (iii) is physically segregated in a manner that results in the
67 enhancement of the value of the agricultural or forestal product; (iv) is a source of renewable energy; or
68 (v) is aggregated and marketed as a locally produced agricultural or forestal product.

69 **§ 3.2-304. Governor's Agriculture and Forestry Industries Development Fund established;**
70 **purpose; use of funds.**

71 A. There is hereby created in the state treasury a nonreverting fund to be known as the Governor's
72 Agriculture and Forestry Industries Development Fund (the Fund) to be used by the Governor to attract
73 new and expanding agriculture and forestry ~~processing/value-added~~ *processing or value-added* facilities
74 using Virginia-grown products. The Fund shall consist of any funds appropriated to it by the general
75 appropriation act and revenue from any other source, public or private. The Fund shall be established on
76 the books of the Comptroller, and any funds remaining in the Fund at the end of a biennium shall not
77 revert to the general fund but shall remain in the Fund. Interest earned on the Fund shall be credited to
78 the Fund. Expenditures and disbursements from the Fund shall be made by the State Treasurer on
79 warrants issued by the Comptroller. The Governor shall report to the Chairmen of the House
80 Committees on Appropriations and Finance and the Senate Committee on Finance *and Appropriations* as
81 funds are awarded in accordance with this chapter.

82 B. Funds shall be awarded from the Fund by the Governor as grants or loans to political
83 subdivisions. The criteria for making such grants or loans shall include (i) number of jobs expected to
84 be created, (ii) anticipated amount of private capital investment, (iii) additional state tax revenue
85 expected to accrue to the state and affected localities as a result of the capital investment and jobs
86 created, (iv) anticipated amount of Virginia-grown agricultural and forestal products used by the project,
87 (v) projected impact on agricultural and forestal producers, (vi) a return on investment analysis to
88 determine the appropriate size of any grant or loan, and (vii) an analysis of the impact on competing
89 businesses already located in the area.

90 C. Funds may be used for public and private utility extension or capacity development on and off
91 site; public and private installation, extension, or capacity development of high-speed or broadband
92 Internet access, whether on or off site; road, rail, or other transportation access costs beyond the funding
93 capability of existing programs; site acquisition; grading, drainage, paving, and any other activity
94 required to prepare a site for construction; construction or build-out of publicly or privately owned
95 buildings; training; or grants or loans to an industrial development authority, housing and redevelopment
96 authority, or other political subdivision for purposes directly relating to any of the foregoing. However,
97 in no case shall funds from the Fund be used, directly or indirectly, to pay or guarantee the payment for
98 any rental, lease, license, or other contractual right to the use of any property.

99 D. Funds may be used for grants to political subdivisions through the ~~Agriculture and Forestry~~
100 ~~Industries Development~~ Planning Grant Program pursuant to § 3.2-310.

101 E. Moneys in the Fund shall not be used for any economic development project in which a business
102 relocates or expands its operations in one or more Virginia localities and simultaneously closes its
103 operations or substantially reduces the number of its employees in another Virginia locality. The
104 Secretary of Agriculture and Forestry shall enforce this policy and for any exception thereto shall
105 promptly provide written notice to the Chairmen of the Senate Finance *and Appropriations* and House
106 Appropriations Committees, which notice shall include a justification for any exception to such policy.

107 F. The Governor shall provide grants and commitments from the Fund in an amount not to exceed
108 the dollar amount contained in the Fund. If the Governor commits funds for years beyond the fiscal
109 years covered under the existing appropriation act, the State Treasurer shall set aside and reserve the
110 funds the Governor has committed, and the funds shall remain in the Fund for those future fiscal years.
111 No grant shall be payable in the years beyond the existing appropriation act unless the funds are
112 currently available in the Fund.

113 **§ 3.2-310. Agriculture and Forestry Industries Development Planning Grant Program.**

114 A. The Governor may award grants from the Fund for the Agriculture and Forestry Industries
115 Development Planning Grant Program to encourage efforts by political subdivisions to support
116 agriculture and forestry.

117 B. Any funds awarded by the Governor pursuant to this section shall be awarded as reimbursable
118 grants to political subdivisions.

119 C. The Secretary of Agriculture and Forestry shall develop guidelines for the *Planning Grant*
120 Program and administer the *Planning Grant* Program on behalf of the Governor. Such guidelines shall
121 (i) include a requirement that any political subdivision applying for a grant provide matching funds and

(ii) state the criteria the Governor will use in evaluating any grant application submitted pursuant to this section. Such guidelines may (a) allow contributions to a project by certain specified entities, such as a nonprofit organization or charitable foundation, to count as eligible local matching funds and (b) accept a reduced match requirement for an economically distressed locality applying for an award.

§ 3.2-311. Local Food and Community Infrastructure Grant Program.

A. The Governor may award grants from the Fund for the Local Food and Community Infrastructure Grant Program to encourage efforts by political subdivisions to support agriculture and forestry.

B. Any funds awarded by the Governor pursuant to this section shall be awarded as reimbursable grants of no more than \$50,000 per grant to political subdivisions to support community infrastructure development projects that support local food production and sustainable agriculture.

C. The Secretary of Agriculture and Forestry shall develop guidelines for the Local Grant Program and administer the Local Grant Program on behalf of the Governor. Such guidelines shall (i) include a requirement that any political subdivision applying for a grant provide matching funds, (ii) require that grants be awarded on a competitive basis, and (iii) state the criteria the Governor will use in evaluating any grant application submitted pursuant to this section. Such guidelines shall favor projects that establish or maintain infrastructure that is located in or serves an underserved community, an environmental justice community, or a community in which a general lack of such infrastructure exists. Such guidelines shall favor projects that establish or maintain (a) farmers markets pursuant to Chapter 35 (§ 3.2-3500 et seq.); (b) food hubs; or (c) processing facilities that are primarily locally owned, including commercial kitchens, packaging and labeling facilities, animal slaughtering facilities, or other facilities, and that are primarily utilized for the processing of meats, dairy products, produce, or other products. Such guidelines shall favor projects that create infrastructure in proximity to small-scale agricultural producers.

D. The guidelines developed pursuant to subsection C may (i) allow contributions to a project by certain specified entities, such as a nonprofit organization or charitable foundation, to count as eligible local matching funds and (ii) accept a reduced match requirement for an economically distressed locality applying for an award.