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SENATE BILL NO. 393

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Labor and Commerce
on February 20, 2024)

(Patron Prior to Substitute—Senator Pekarsky)

A *BILL to amend and reenact § 30-310 of the Code of Virginia, relating to MEI Project Approval Commission; board-level gender and diversity requirements.*

Be it enacted by the General Assembly of Virginia:

1. That § 30-310 of the Code of Virginia is amended and reenacted as follows:

§ 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, film, and episodic television projects (including but not limited to MEI 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, (ii) one of the incentives being sought includes a cash payment to a private sector business of more than \$3.5 million from any fund prior to any performance metrics being met by the proposed project, or (iii) the aggregate amount of incentives to be provided by the Commonwealth in the incentive package including discretionary grants, 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. Except for the value of any sales tax exemption available pursuant to subdivision 18 of § 58.1-609.3 or tax credit available pursuant to § 58.1-439.12:03, the value of any existing nondiscretionary incentives shall not be considered in calculating whether the incentives are in excess of \$10 million in value, and no review shall be required for a project if the only incentives to be provided to a potential project are nondiscretionary incentives. 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 if the aggregate amount of incentives to be provided by the Commonwealth in the incentive package including discretionary grants, 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 \$2.5 million in value. 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 (a) return on investment; (b) the time frame for repayment of incentives to the Commonwealth; (c) average wages of the jobs created by the prospective MEI project or other economic development project; (d) the amount of capital investment that is required; ~~and~~; (e) the need for enhanced employment opportunities in the prospective location of the prospective MEI project or other economic development project; (f) *an evaluation of the board diversity disclosure statement submitted by the business; and (g) whether the business commits to, upon approval by the Commission of the incentive package, annually update and submit such diversity disclosure statement to the Virginia Economic Development Partnership Authority. The board diversity disclosure statement described in this section shall include the number and percentage of diverse directors on the board of directors of a business who identify as female or as representing a national, racial, ethnic, indigenous, or cultural minority in the country of the business's principal executive offices.*

2. a. Any time a proposed individual incentive package is to be considered by the Commission, materials outlining (i) the value of the proposed incentives; (ii) assumed return on investment; (iii) the time frame for repayment of incentives to the Commonwealth; (iv) average wages of the jobs created by the prospective economic development, film, or episodic television project; (v) the amount of capital investment that is required; (vi) the need for enhanced employment opportunities in the prospective location of the prospective economic development, film, or episodic television project; (vii) the total amount of state incentives received by the sponsor of the economic development, film, or episodic television project in the past; ~~and~~ (viii) a list of all other existing, nondiscretionary incentives for which the sponsor of the economic development, film, or episodic television project may qualify; *and (ix) a board diversity disclosure statement shall be provided to the staff of the House Committee on Appropriations and Senate Committee on Finance and Appropriations not less than five business days prior to the scheduled Commission meeting. Staff shall also be provided with an aggregate list of all discretionary incentives currently committed by the Commonwealth for the next 10 years, including anticipated requests for appropriations to satisfy such commitments during that time.*

b. The timing of any request for an endorsement of a proposed individual incentive package should be scheduled so that the MEI Commission could, at its discretion, have up to seven days subsequent to

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60 the presentation of the incentive package prior to endorsing or rejecting such proposal.

61 c. State agencies, localities, authorities, or other political subdivisions of the Commonwealth that
62 have significant involvement in a proposed individual incentive package in terms of providing facilities
63 or regulatory support to a project or in developing the proposed individual incentive package shall
64 review the materials required by subdivision 2 and certify the accuracy of such materials prior to
65 consideration by the Commission.

66 B. An affirmative vote by four of the seven members of the Commission from the House of
67 Delegates and three of the five members of the Commission from the Senate shall be required to
68 endorse any incentive package, including but not limited to packages offering tax incentives, for
69 economic development, film, and episodic television projects (including but not limited to MEI projects)
70 for which (i) one or more of the incentives in the incentive package is not authorized under current law
71 or an amendment by the General Assembly is being sought to one or more currently existing incentives
72 included as part of the incentive package, (ii) one of the incentives being sought includes a cash
73 payment to a private sector business of more than \$3.5 million from any fund prior to any performance
74 metrics being met by the proposed project, or (iii) the aggregate amount of incentives to be provided by
75 the Commonwealth in the incentive package including discretionary grants, general or nongeneral funds,
76 proceeds from bonds, rights to lease property at below fair market value, or any other incentives from
77 the Commonwealth is in excess of \$10 million in value. Except for the value of any sales tax exemption
78 available pursuant to subdivision 18 of § 58.1-609.3 or tax credit available pursuant to § 58.1-439.12:03,
79 the value of any existing nondiscretionary incentives shall not be considered in calculating whether the
80 incentives are in excess of \$10 million in value. Such vote shall also be required to endorse any
81 economic development project in which a business relocates or expands its operations in one or more
82 Virginia localities and simultaneously closes its operations or substantially reduces the number of its
83 employees in another Virginia locality if the aggregate amount of incentives to be provided by the
84 Commonwealth in the incentive package including discretionary grants, general or nongeneral funds,
85 proceeds from bonds, rights to lease property at below fair market value, or any other incentives from
86 the Commonwealth is in excess of \$2.5 million in value. However, no vote shall be required for a
87 project if the only incentives to be provided to a potential project are nondiscretionary incentives
88 available to any qualified taxpayer under existing law.