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HOUSE BILL NO. 458

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to amend and reenact §§ 30-309 and 30-310 of the Code of Virginia, relating to MEI Project Approval Commission; incentives requiring review.

Patron—Bulova

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 30-309 and 30-310 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, 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 ~~(ii)~~ (iii) 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 or the film or television 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, 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 tax credits or exemptions generally available to a potential project 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 tax credits or exemptions available to any qualified taxpayer under existing law.~~

B. The Commission shall consist of 14 members as follows: seven members of the House Committee on Appropriations or the House Committee on Finance appointed by the chair of the House Committee on Appropriations and five members of the Senate Committee on Finance and Appropriations appointed by the chair of the Senate Committee on Finance and Appropriations. 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, 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 ~~(ii)~~ (iii) 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, Except for the value of any sales tax exemption available~~

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59 pursuant to subdivision 18 of § 58.1-609.3 or tax credit available pursuant to § 58.1-439.12:03, the
60 value of any existing nondiscretionary tax credits or exemptions generally available to a potential
61 project shall not be considered in calculating whether the incentives are in excess of \$10 million in
62 value, and no review shall be required for a project if the only incentives to be provided to a potential
63 project are nondiscretionary tax credits or exemptions available to any qualified taxpayer under existing
64 law. The Commission shall also review economic development projects in which a business relocates or
65 expands its operations in one or more Virginia localities and simultaneously closes its operations or
66 substantially reduces the number of its employees in another Virginia locality *if the aggregate amount of*
67 *incentives to be provided by the Commonwealth in the incentive package including grants, general or*
68 *nongeneral funds, proceeds from bonds, rights to lease property at below fair market value, or any*
69 *other incentives from the Commonwealth is in excess of \$2.5 million in value.* The Commission shall
70 recommend approval or denial of such packages and projects to the General Assembly. Factors that shall
71 be considered by the Commission in its review shall include but not be limited to (a) return on
72 investment, (b) the time frame for repayment of incentives to the Commonwealth, (c) average wages of
73 the jobs created by the prospective MEI project or other economic development project, (d) the amount
74 of capital investment that is required, and (e) the need for enhanced employment opportunities in the
75 prospective location of the prospective MEI project or other economic development project.

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

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

93 B. An affirmative vote by four of the seven members of the Commission from the House of
94 Delegates and three of the five members of the Commission from the Senate shall be required to
95 endorse any incentive package, including but not limited to packages offering tax incentives, for
96 economic development, film, and episodic television projects (including but not limited to MEI projects)
97 for which (i) one or more of the incentives in the incentive package is not authorized under current law
98 or an amendment by the General Assembly is being sought to one or more currently existing incentives
99 included as part of the incentive package, (ii) *one of the incentives being sought includes a cash*
100 *payment to a private sector business of more than \$3.5 million from any fund prior to any performance*
101 *metrics being met by the proposed project, or* ~~(ii)~~ (iii) the aggregate amount of incentives to be provided
102 by the Commonwealth in the incentive package including grants, ~~tax incentives such as credits and~~
103 ~~exemptions,~~ general or nongeneral funds, proceeds from bonds, rights to lease property at below fair
104 market value, or any other incentives from the Commonwealth is in excess of \$10 million in value.
105 *Except for the value of any sales tax exemption available pursuant to subdivision 18 of § 58.1-609.3 or*
106 *tax credit available pursuant to § 58.1-439.12:03, the value of any existing nondiscretionary tax credits*
107 *or exemptions generally available to a potential project shall not be considered in calculating whether*
108 *the incentives are in excess of \$10 million in value.* Such vote shall also be required to endorse any
109 economic development project in which a business relocates or expands its operations in one or more
110 Virginia localities and simultaneously closes its operations or substantially reduces the number of its
111 employees in another Virginia locality *if the aggregate amount of incentives to be provided by the*
112 *Commonwealth in the incentive package including grants, general or nongeneral funds, proceeds from*
113 *bonds, rights to lease property at below fair market value, or any other incentives from the*
114 *Commonwealth is in excess of \$2.5 million in value.* However, no vote shall be required for a project if
115 the only incentives to be provided to a potential project are nondiscretionary tax credits or exemptions
116 available to any qualified taxpayer under existing law.