

1 HOUSE BILL NO. 212

2 AMENDMENT IN THE NATURE OF A SUBSTITUTE

3 (Proposed by the House Committee on Appropriations

4 on February 7, 2024)

5 (Patron Prior to Substitute--Delegate Watts)

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

8 **Be it enacted by the General Assembly of Virginia:**9 **1. That § 30-310 of the Code of Virginia is amended and reenacted as follows:**10 **§ 30-310. Review of incentive packages.**

11 A. 1. The Commission shall review individual incentive packages, including but not limited to
12 packages offering tax incentives, for economic development, film, and episodic television projects
13 (including but not limited to MEI projects) for which (i) one or more of the incentives in the incentive
14 package is not authorized under current law or an amendment by the General Assembly is being sought
15 to one or more currently existing incentives included as part of the incentive package, (ii) one of the
16 incentives being sought includes a cash payment to a private sector business of more than \$3.5 million
17 from any fund prior to any performance metrics being met by the proposed project, or (iii) the aggregate
18 amount of incentives to be provided by the Commonwealth in the incentive package including
19 discretionary grants, general or nongeneral funds, proceeds from bonds, rights to lease property at below
20 fair market value, or any other incentives from the Commonwealth is in excess of \$10 million in value.
21 Except for the value of any sales tax exemption available pursuant to subdivision 18 of § 58.1-609.3 or
22 tax credit available pursuant to § 58.1-439.12:03, the value of any existing nondiscretionary incentives
23 shall not be considered in calculating whether the incentives are in excess of \$10 million in value, and no
24 review shall be required for a project if the only incentives to be provided to a potential project are
25 nondiscretionary incentives. The Commission shall also review economic development projects in which
26 a business relocates or expands its operations in one or more Virginia localities and simultaneously closes

27 its operations or substantially reduces the number of its employees in another Virginia locality if the
28 aggregate amount of incentives to be provided by the Commonwealth in the incentive package including
29 discretionary grants, general or nongeneral funds, proceeds from bonds, rights to lease property at below
30 fair market value, or any other incentives from the Commonwealth is in excess of \$2.5 million in value.
31 The Commission shall recommend approval or denial of such packages and projects to the General
32 Assembly. Factors that shall be considered by the Commission in its review shall include but not be limited
33 to (a) return on investment; (b) the time frame for repayment of incentives to the Commonwealth; (c)
34 average wages of the jobs created by the prospective MEI project or other economic development project;
35 (d) the amount of capital investment that is required; ~~and~~; (e) the need for enhanced employment
36 opportunities in the prospective location of the prospective MEI project or other economic development
37 project; (f) an evaluation of the board diversity disclosure statement submitted by the business; and (g)
38 whether the business commits to, upon approval by the Commission of the incentive package, annually
39 update and submit such diversity disclosure statement to the Virginia Economic Development Partnership
40 Authority. The board diversity disclosure statement described in this section shall include the number and
41 percentage of diverse directors on the board of directors of a business who identify as female or as
42 representing a national, racial, ethnic, indigenous, or cultural minority in the country of the business's
43 principal executive offices.

44 2. a. Any time a proposed individual incentive package is to be considered by the Commission,
45 materials outlining (i) the value of the proposed incentives; (ii) assumed return on investment; (iii) the
46 time frame for repayment of incentives to the Commonwealth; (iv) average wages of the jobs created by
47 the prospective economic development, film, or episodic television project; (v) the amount of capital
48 investment that is required; (vi) the need for enhanced employment opportunities in the prospective
49 location of the prospective economic development, film, or episodic television project; (vii) the total
50 amount of state incentives received by the sponsor of the economic development, film, or episodic
51 television project in the past; ~~and~~ (viii) a list of all other existing, nondiscretionary incentives for which
52 the sponsor of the economic development, film, or episodic television project may qualify; and (ix) a board
53 diversity disclosure statement shall be provided to the staff of the House Committee on Appropriations

54 and Senate Committee on Finance and Appropriations not less than five business days prior to the
55 scheduled Commission meeting. Staff shall also be provided with an aggregate list of all discretionary
56 incentives currently committed by the Commonwealth for the next 10 years, including anticipated requests
57 for appropriations to satisfy such commitments during that time.

58 b. The timing of any request for an endorsement of a proposed individual incentive package should
59 be scheduled so that the MEI Commission could, at its discretion, have up to seven days subsequent to the
60 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 review
64 the materials required by subdivision 2 and certify the accuracy of such materials prior to consideration
65 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 endorse
68 any incentive package, including but not limited to packages offering tax incentives, for economic
69 development, film, and episodic television projects (including but not limited to MEI projects) for which
70 (i) one or more of the incentives in the incentive package is not authorized under current law or an
71 amendment by the General Assembly is being sought to one or more currently existing incentives included
72 as part of the incentive package, (ii) one of the incentives being sought includes a cash payment to a private
73 sector business of more than \$3.5 million from any fund prior to any performance metrics being met by
74 the proposed project, or (iii) the aggregate amount of incentives to be provided by the Commonwealth in
75 the incentive package including discretionary grants, general or nongeneral funds, proceeds from bonds,
76 rights to lease property at below fair market value, or any other incentives from the Commonwealth is in
77 excess of \$10 million in value. Except for the value of any sales tax exemption available pursuant to
78 subdivision 18 of § 58.1-609.3 or tax credit available pursuant to § 58.1-439.12:03, the value of any
79 existing nondiscretionary incentives shall not be considered in calculating whether the incentives are in
80 excess of \$10 million in value. Such vote shall also be required to endorse any economic development

81 project in which a business relocates or expands its operations in one or more Virginia localities and
82 simultaneously closes its operations or substantially reduces the number of its employees in another
83 Virginia locality if the aggregate amount of incentives to be provided by the Commonwealth in the
84 incentive package including discretionary grants, general or nongeneral funds, proceeds from bonds, rights
85 to lease property at below fair market value, or any other incentives from the Commonwealth is in excess
86 of \$2.5 million in value. However, no vote shall be required for a project if the only incentives to be
87 provided to a potential project are nondiscretionary incentives available to any qualified taxpayer under
88 existing law.

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