WEST VIRGINIA CODE: §5b-2E-5

§5B-2E-5. Project application; evaluation standards; approval of projects.

(a) Each eligible company that seeks to qualify a project for the tourism development project tax credit provided by section seven of this article, or for the tourism development expansion project tax credit provided by section seven-a of this article, as applicable, must file a written application for approval of the project with the department.

(b) With respect to each eligible company making an application to the department for a tourism development project tax credit or a tourism development expansion project tax credit, the department shall make inquiries and request documentation, including a completed application, from the applicant that shall include: A description and location of the project; capital and other anticipated expenditures for the project and the sources of funding therefor; the anticipated employment and wages to be paid at the project; business plans that indicate the average number of days in a year in which the project will be in operation and open to the public; and the anticipated revenues and expenses generated by the project.

(c) On and after the effective date of this section as amended in 2023, the Secretary of the Department, within sixty days following receipt of an application or receipt of any additional information requested by the Department respecting the application, whichever is later, shall act to grant or not to grant approval of the application, based on the following criteria, all subjective criteria is subject to the sole discretion of the Department:

(1) The project will attract at least twenty-five percent of its visitors from outside of this state;

(2) The project will have approved costs in excess of $1,000,000;

(3) The project will have a significant and positive economic impact on the state considering, among other factors, the extent to which the project will compete directly with or complement existing tourism attractions in the state and the amount by which increased tax revenues from the project will exceed the credit given to the approved company;

(4) The project is expected to produce sufficient revenues and public demand to be operating and open to the public for a minimum of one hundred days per year, not accounting for any unforeseen weather or other force majeure events;

(5) The project will provide additional employment opportunities in the state;

(6) The quality of the proposed project and how it addresses economic problems in the area in which the project will be located;

(7) Whether there is substantial and credible evidence that the project is likely to be started

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and completed in a timely fashion;

(8) Whether the project will, directly or indirectly, improve the opportunities in the area where the project will be located for the successful establishment or expansion of other industrial or commercial businesses;

(9) Whether the project will, directly or indirectly, assist in the creation of additional employment opportunities in the area where the project will be located;

(10) Whether the project helps to diversify the local economy;

(11) Whether the project is consistent with the goals of this article;

(12) Whether the project is economically and fiscally sound using recognized business standards of finance and accounting; and

(13) The ability of the eligible company to carry out the project.

(d) The department may establish other criteria for consideration when approving the applications.

(e) The decision by the Secretary of the Department is final.

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