

No: 2629

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1987

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ENROLLED

Com. Sub. for
HOUSE BILL No. 2629

(By Delegate Mr. Speaku, Mr. Chambers
and Del. Swann)

[By Request of the Executive]

— ● —

Passed March 14 1987

In Effect from Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2629

(By MR. SPEAKER, MR. CHAMBERS and DELEGATE SWANN)
[By request of the Executive]

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AN ACT to amend and reenact sections two, three, four, five, six, eight and nine, article two-b, chapter five-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to enterprise zone authority; definitions; creation of authority, membership, terms, powers and duties, and employment of staff; enterprise zone tax exemptions; creation of number of enterprise zones and requirements; and maximum number of enterprise zones and period for which designation as such continues, with required minimum.

Be it enacted by the Legislature of West Virginia:

That sections two, three, four, five, six, eight and nine, article two-b, chapter five-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 2B. ENTERPRISE ZONE AUTHORITY.

§5B-2B-2. Definitions.

- 1 As used in this article, unless the context clearly
- 2 indicates otherwise:
- 3 (a) “Authority” means the enterprise zone authority of

4 West Virginia.

5 (b) "Enterprise zone" means an area of the state
6 designated by the authority to be eligible for the benefits
7 of this article.

8 (c) "Qualified business" means any person, corpora-
9 tion or other entity who, during the time of designation
10 of an enterprise zone, is engaged in the active conduct
11 of a trade or business in an enterprise zone in West
12 Virginia:

13 (1) With at least fifty percent of its employees who
14 were hired after designation as an enterprise zone and
15 who perform substantially all of their services within an
16 enterprise zone; or

17 (2) With individuals from one or more of the following
18 three categories constituting at least twenty-five percent
19 of the business's employees who were hired after the
20 designation of an enterprise zone:

21 (i) Residents of an enterprise zone; or

22 (ii) Individuals who have been unemployed for at least
23 twelve months immediately prior to obtaining employ-
24 ment with the business; or

25 (iii) Individuals who have received public assistance
26 benefits for at least twelve months immediately prior to
27 obtaining employment with the business.

28 (d) "Qualified property" means:

29 (1) Any tangible personal property located in an
30 enterprise zone used predominantly by the taxpayer in
31 the zone in the active conduct of a trade or business; or

32 (2) Any real property located in such zone which:

33 (i) Was used predominantly by the taxpayer in the
34 active conduct of a trade or business; or

35 (ii) Was the principal residence of the taxpayer on the
36 date of the sale or exchange;

37 (3) Any interest in a corporation, partnership or other
38 entity if, for the most recent taxable year of such entity
39 ending before the date of the sale or exchange, such

40 entity was a qualified business.

41 (e) "Qualified employee" means any employee who
 42 works at least thirty-five hours per week or otherwise
 43 employed in a full time capacity by a qualified business
 44 and is a resident of West Virginia.

§5B-2B-3. Enterprise zone authority created; appointment and terms of members; chairperson's powers.

1 There is hereby created the enterprise zone authority
 2 which consists of seven members. The following membership of the authority shall be appointed by the
 3 governor with the advice and consent of the Senate: One
 4 member shall be appointed from a list of three names
 5 submitted by the West Virginia labor-management
 6 advisory council; one member shall be appointed from
 7 a list of three names submitted by the West Virginia
 8 municipal league; one member shall be appointed from
 9 a list of three names submitted by the West Virginia
 10 association of county officials; three members, no more
 11 than two of which shall be from the same political party,
 12 shall be appointed by the governor to serve at large.
 13

14 In addition to the gubernatorial appointees, the
 15 director of the governor's office of community and
 16 industrial development or his designee shall serve as a
 17 member and chairperson; further, the director of the
 18 governor's office of community and industrial development,
 19 shall call the first meeting as soon as practicable.

20 The members appointed by the governor shall serve
 21 a term of four years, except that the members first
 22 appointed shall serve for the following terms: Three for
 23 a term of one year; two for a term of two years; and one
 24 for a term of three years. The governor shall have sole
 25 discretion in determining the terms for his initial
 26 appointees. The members of the authority, except for the
 27 chairperson, shall receive reimbursement for actual and
 28 reasonable expenses incurred in the performance of
 29 their duties.

30 The authority shall administer this article and has the
 31 following powers and duties:

32 (1) To certify that the criteria of this article for
33 determining which areas qualify as enterprise zones
34 have been met;

35 (2) To monitor the implementation of this article and
36 submit reports evaluating the effectiveness of the
37 program and any suggestions for legislation to the
38 governor and Legislature on the second Wednesday of
39 January of each year;

40 (3) To conduct a continuing evaluation program of
41 enterprise zones;

42 (4) To promulgate all necessary rules and regulations
43 in accordance with the provisions of chapter twenty-
44 nine-a of this code to carry out the purposes of this
45 article;

46 (5) To assist units of local government in obtaining
47 federal status as an enterprise zone;

48 (6) To assist any qualified business in obtaining the
49 benefits of any incentive or inducement program
50 provided by law and to certify qualified businesses to
51 be eligible for the benefits of this article;

52 (7) To assist the governing authority of an enterprise
53 zone in obtaining assistance from any other agency of
54 state government including, but not limited to, assist-
55 ance in providing training and technical assistance to
56 qualified businesses within a zone; and

57 (8) To employ such staff as necessary to carry out the
58 purposes of this article.

§5B-2B-4. Duties of the authority.

1 (a) The authority shall provide information and
2 appropriate assistance to persons desiring to locate and
3 engage in business in an enterprise zone regarding the
4 state licenses, permits, certificates, approvals, registra-
5 tions, charters and any other forms of permission
6 required by law to engage in business in the state.

7 (b) Irrespective of any authority delegated to the
8 authority to implement the provisions of this article, the
9 authority for determining if any requested licenses,

10 permits, certificates, approvals, registrations, charters
 11 or any other form of permission required by law shall
 12 be issued shall remain with the agency otherwise legally
 13 authorized to issue the permission required.

§5B-2B-5. Enterprise zone tax exemptions.

1 Notwithstanding any provision of this code to the
 2 contrary, the following exemptions apply to enterprise
 3 zones:

4 (1) A qualified business shall be allowed as a credit
 5 against the taxes imposed on it by articles twelve-a,
 6 thirteen, thirteen-a, thirteen-b, twenty-one and twenty-
 7 four, chapter eleven of this code, fifty percent of the
 8 amount of interest expense it accrued or paid during the
 9 tax year to purchase inventory held for sale or use by
 10 it in the enterprise zone, or real property located in the
 11 enterprise zone, or tangible personal property having its
 12 permanent business situs in the enterprise zone:
 13 *Provided*, That the amount of credit allowed shall be
 14 applied to these taxes in the order stated above and is
 15 limited to fifty percent of such interest expense or the
 16 amount of such taxes, whichever is less, with any unused
 17 credit being forfeited, and the property must have been
 18 purchased after the enterprise zone was designated.

19 (2) The sale of building materials for use in remodel-
 20 ing, rehabilitation, or new construction in an enterprise
 21 zone and the sale of new and used equipment and
 22 machinery shall be exempt from the taxes imposed by
 23 articles fifteen and fifteen-a, chapter eleven of this code,
 24 when purchased by a qualified business for use in the
 25 enterprise zone. To claim exemption from tax the
 26 purchaser must give the seller a properly executed
 27 exemption certificate claiming exemption from tax
 28 under this provision.

29 (3) Motor vehicles purchased from a seller located
 30 within West Virginia by qualified businesses in an
 31 enterprise zone shall receive a fifty percent reduction of
 32 the motor vehicle privilege tax;

33 (4) Qualified businesses shall receive a tax credit in
 34 the amount of unemployment compensation taxes paid

35 upon new employees hired after the designation of an
36 enterprise zone and meets the requirements of section
37 2 (c)(2) of this article and in accordance with article five,
38 chapter twenty-one-a of this code, against any corporate
39 net income or personal income tax liability of such
40 qualified business; and

41 (5) For state tax purposes, qualified businesses may
42 carry forward net operating losses generated in an
43 enterprise zone after an area has been designated as an
44 enterprise zone for the period of existence of the
45 enterprise zone in which the qualified business is
located.

§5B-2B-6. Administrative regulation exemptions.

1 (a) In order to carry out the purposes of this article,
2 any administrative body which promulgates administra-
3 tive regulations pursuant to chapter twenty-nine-a of
4 this code may, by regulation, exempt enterprise zones
5 from the provisions of any regulation, in whole or in
6 part, promulgated by that administrative body.

7 (b) Enterprise zones shall not be made exempt from
8 the provisions of any regulation if such exemption
9 endangers the health and safety of the citizens of the
10 state as determined by the administrative body respon-
11 sible for promulgation and enforcement of such
12 regulation.

13 (c) The authority shall conduct a review of applicable
14 state regulations for each qualified business and shall
15 recommend to the appropriate administrative bodies the
16 exemption of regulations promulgated by such body
17 which would contribute to the implementation of this
18 article.

19 (d) Any exemption of a regulation in enterprise zones
20 shall be adopted by regulation in the manner provided
21 by chapter twenty-nine-a of this code.

§5B-2B-8. Enterprise zone requirements for creation.

1 (a) Any area or areas of a city, county, or of the state,
2 may be designated an enterprise zone which:

3 (1) Has a continuous boundary or consists of noncon-

4 tiguous tracts commonly owned by a municipal or
5 county government or a local development authority;

6 (2) Is an area of pervasive poverty, unemployment
7 and economic distress.

8 (b) An area meets the requirements of subdivision (2),
9 subsection (a) of this section, if:

10 (1) The average rate of unemployment in such area
11 for the most recent eighteen-month period for which
12 data are available was at least one and one-half times
13 the average national rate of unemployment for such
14 eighteen-month period;

15 (2) At least seventy percent of the residents living in
16 the proposed enterprise zone have incomes below eighty
17 percent of the median income of the residents of the
18 county or counties requesting designation as certified in
19 a statistical report prepared by the state tax depart-
20 ment; or

21 (3) The population of all census tracts in the area
22 decreased by ten percent or more between the two most
23 recent decennial United States census and the city or
24 county requesting designation establishes to the satisfac-
25 tion of the authority that either:

26 (i) Chronic abandonment or demolition of commercial
27 or residential structures exist in the area; or

28 (ii) Substantial tax delinquencies relating to ad
29 valorem real property taxes of commercial or residential
30 structures exist in the area.

**§5B-2B-9. Designation of enterprise zones; conditions for
preference of enterprise zones.**

1 (a) In each of the three calendar years after the
2 calendar year one thousand nine hundred eighty-six, the
3 authority may designate not more than five enterprise
4 zones. In the fourth calendar year after the year one
5 thousand nine hundred eighty-six, the authority may
6 designate not more than three enterprise zones. In
7 deciding which areas should be designated as enterprise
8 zones, the authority shall give preference to:

9 (1) Areas with the highest levels of poverty, unem-
10 ployment and general distress;

11 (2) Areas which have the widest support from the
12 government seeking designation, the community, resi-
13 dents, local business and private organizations; and

14 (3) Areas for which the government seeking designa-
15 tion has made or will make the greatest effort to
16 encourage economic activity and remove impediments to
17 job creation, including, but not limited to, a reduction
18 of tax rates or fees and increase in the level or efficiency
19 of local services and a simplification or streamlining of
20 governmental requirements on employers or employees,
21 taking into account the resources available to such
22 government to make such efforts.

23 (b) Any designation of an area as an enterprise zone
24 shall remain in effect during the period beginning on
25 the date of designation and ending on the thirty-first day
26 of December of the twentieth year following the year of
27 designation.

28 (c) The authority may remove designation of any area
29 as an enterprise zone if such area no longer meets the
30 criteria for designation as set out in this article, and by
31 regulation adopted by the authority pursuant to this
32 article. No designation shall be removed less than ten
33 years from the date of original designation.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Bruce O. Williams
Chairman Senate Committee

Lyle Settle
Chairman House Committee

Originating in the House.

Takes effect from passage.

Todd C. Mills
Clerk of the Senate

Donald L. Hoyle
Clerk of the House of Delegates

Don Tonkovich
President of the Senate

Robert C. Clark
Speaker of the House of Delegates

The within *approved* this the *2nd*
day of *April*, 1987.

Arthur A. Phares
Governor

PRESENTED TO THE

GOVERNOR

Date 3/27/87

Time 2:33 p.m.