WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1987

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ENROLLED

Com. Sub for

HOUSE BILL No. 2629

(By Delegate)

Ms. Speaker, Ms. Chamber and Del. Swann

By request of the Executive

Passed March 14, 1987

In Effect from Passage
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 indicates otherwise:

3 (a) “Authority” means the enterprise zone authority of
(b) "Enterprise zone" means an area of the state designated by the authority to be eligible for the benefits of this article.

c) "Qualified business" means any person, corporation or other entity who, during the time of designation of an enterprise zone, is engaged in the active conduct of a trade or business in an enterprise zone in West Virginia:

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

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

(i) Residents of an enterprise zone; or

(ii) Individuals who have been unemployed for at least twelve months immediately prior to obtaining employment with the business; or

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

d) "Qualified property" means:

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

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

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

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

(3) Any interest in a corporation, partnership or other entity if, for the most recent taxable year of such entity ending before the date of the sale or exchange, such
entity was a qualified business.

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

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

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

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

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

The authority shall administer this article and has the following powers and duties:
(1) To certify that the criteria of this article for determining which areas qualify as enterprise zones have been met;

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

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

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

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

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

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

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

§5B-2B-4. Duties of the authority.

(a) The authority shall provide information and appropriate assistance to persons desiring to locate and engage in business in an enterprise zone regarding the state licenses, permits, certificates, approvals, registrations, charters and any other forms of permission required by law to engage in business in the state.

(b) Irrespective of any authority delegated to the authority to implement the provisions of this article, the authority for determining if any requested licenses,
permits, certificates, approvals, registrations, charters or any other form of permission required by law shall be issued shall remain with the agency otherwise legally authorized to issue the permission required.

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

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

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

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

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

(4) Qualified businesses shall receive a tax credit in the amount of unemployment compensation taxes paid
upon new employees hired after the designation of an enterprise zone and meets the requirements of section 2 (c)(2) of this article and in accordance with article five, chapter twenty-one-a of this code, against any corporate net income or personal income tax liability of such qualified business; and

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

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

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

(b) Enterprise zones shall not be made exempt from the provisions of any regulation if such exemption endangers the health and safety of the citizens of the state as determined by the administrative body responsible for promulgation and enforcement of such regulation.

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

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

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

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

(1) Has a continuous boundary or consists of noncon-
tiguous tracts commonly owned by a municipal or
county government or a local development authority;
(2) Is an area of pervasive poverty, unemployment
and economic distress.
(b) An area meets the requirements of subdivision (2),
subsection (a) of this section, if:
(1) The average rate of unemployment in such area
for the most recent eighteen-month period for which
data are available was at least one and one-half times
the average national rate of unemployment for such
eighteen-month period;
(2) At least seventy percent of the residents living in
the proposed enterprise zone have incomes below eighty
percent of the median income of the residents of the
county or counties requesting designation as certified in
a statistical report prepared by the state tax depart-
ment; or
(3) The population of all census tracts in the area
decreased by ten percent or more between the two most
recent decennial United States census and the city or
county requesting designation establishes to the satisfac-
tion of the authority that either:
(i) Chronic abandonment or demolition of commercial
or residential structures exist in the area; or
(ii) Substantial tax delinquencies relating to ad
valorem real property taxes of commercial or residential
structures exist in the area.
§5B-2B-9. Designation of enterprise zones; conditions for
preference of enterprise zones.
(a) In each of the three calendar years after the
calendar year one thousand nine hundred eighty-six, the
authority may designate not more than five enterprise
zones. In the fourth calendar year after the year one
thousand nine hundred eighty-six, the authority may
designate not more than three enterprise zones. In
deciding which areas should be designated as enterprise
zones, the authority shall give preference to:
(1) Areas with the highest levels of poverty, unemployment and general distress;

(2) Areas which have the widest support from the government seeking designation, the community, residents, local business and private organizations; and

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

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

(c) The authority may remove designation of any area as an enterprise zone if such area no longer meets the criteria for designation as set out in this article, and by regulation adopted by the authority pursuant to this article. No designation shall be removed less than ten years from the date of original designation.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within day of April, 1987.

Governor