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Periodic Review and Small Business Impact Findings Where Result is "Retain the Regulation As Is"

Agency name	Board of Housing and Community Development
Virginia Administrative Code (VAC) citation	13 VAC 5-112
Regulation title	Enterprise Zone Grant Program Regulation
Date	4/4/2018

This information is required pursuant to Executive Order 17 (2014).

Legal basis

Please identify the state and/or federal legal authority for the regulation, including: 1) the most relevant law and/or regulation; and 2) promulgating entity, i.e., agency, board, or person.

§59.1-541 of the Code of Virginia requires the Board of Housing and Community Development to promulgate regulations governing the enterprise zone program.

Alternatives

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

There are not viable alternative for achieving the purpose of the existing regulation. The Code of Virginia requires the Board of Housing and Community Development to promulgate regulations in accordance with §59.1-541 et seq. of the Code.

Public comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

Commenter	Comment	Agency response
Sherry Spring	<p>Having worked in economic development for the past 22 years and working in an area with an Enterprise Zone, I certainly understand the importance of having the zone in new recruitment efforts and retention efforts. There is a tremendous amount of work on the local level that goes into the potential formation of an Enterprise Zone prior to state approval. First, I think the EZ should be amended to work better with today's economic development needs. I think the state EZ is now 22 years old and things have changed. I think the guidelines should reflect small businesses and not just the larger ones with big capital investment and job creation. I don't necessarily agree that it should just be for low income/high unemployment areas. I would hope that the program can be revisited to include something for everyone and make the rural areas more competitive with the suburban and urban areas in the state. Thank you for the opportunity to express my thoughts on the EZ.</p>	<p>Commenter thanked for their participation and advised that their comments were forwarded to the Board for consideration at their April 2 meeting.</p> <p>Determined that comments cannot likely be addressed through regulatory change.</p>
Ashley Wolfe	<p>When Pittsylvania County Staff began their comprehensive enterprise zone amendment process, we realized that much of our existing designated zones were being highly under-utilized with new homes, schools, that had been built in the zone and/or the lack of needed industrial infrastructure. To make better use of the zones, Staff reviewed the possibility of shifting the under-utilized zone acreage to existing industrial parks and strategic economic development properties that were not in the zone. After Staff tabulated the desired acreage to be amended (deleted and added), we realized that there was a maximum deletion clause in the Virginia Administrative Code (13VAC5-112-490. Amendment of Approved Applications) that</p>	<p>Commenter thanked for their participation and advised that their comments were forwarded to the Board for consideration at their April 2 meeting.</p> <p>This comment does not suggest a change but references legislation related to the program passed in 2018 (Acts of Assembly 2018, Ch. 315)</p>

	<p>restricted requested deletions to 15% of the zone total acreage.</p> <p>Delegate Danny Marshall has submitted HB 431 that would ammend the Code of Virginia, supersede the Virginia Administrative Code, and would result in the removal of the maximum deletion clause and instead provide that the cumulative net acreage of the zone, after requested deletion and addition amendments, cannot exceed the maximum and minimum zone acreages as given in subsection C of § 59.1-542.</p> <p>By this proposed bill removing the maximum deletion requirement, it gives locales more flexibility in better utilizing their zones and removes the issue of comprehensive enterprise zone amendments taking multiple years due to locales having to piecemeal the requests to meet the 15% maximum deletion cap. It will also remove the burden from DHCD staff, of trying to calculate and keep track of the percentage of total zone deletion during an amendment process. This flexibility will enable host localities to experience greater impacts from the zones and will put Virginia in a better position to “win” more projects by having appropriate land zoned for these real property investment and job creation-based incentives.</p> <p>The proposed bill also clarifies the land area requirements associated with designated enterprise zones, by including language from the appropriate Virginia Administrative Code section (13VAC5-112-440. Zone Eligibility Requirements), which clearly states the minimum and maximum acreage for designated zones within cities, towns, and unincorporated areas of Counties (also known as rural Virginia).</p> <p>Pittsylvania County, and its Board of Supervisors, thank Delegate Marshall for sponsoring this bill. We sincerely believe that its passage will result in making an already effective economic development tool and program even better, which both directly and indirectly results in improving the public health, safety, and welfare.</p>	
<p>Elizabeth Schulhof</p>	<p>Having worked with the EZ program by preparing application packages for over 15 years, I agree with prior comments</p>	<p>Commenter thanked for their participation and advised that their comments were forwarded to the</p>

	<p>concerning the changing economic landscape. Directing the program toward smaller towns and rural localities and most importantly toward smaller businesses would be beneficial. Thank you.</p>	<p>Board for consideration at their April 2 meeting.</p> <p>Determined that comments cannot likely be addressed through regulatory change.</p>
<p>Stephen Marusco (Received by email)</p>	<p>Below is a letter I sent to delegates of the General Assembly extolling the virtues of the Enterprise Zone Program. The letter comments on a recently commissioned study of Enterprise Zone Programs done by Virginia Commonwealth University. The content of the letter would be relevant because it highlights the positive impact Enterprise Grant programs have on our business community throughout the State of Virginia.</p> <p>I am a CPA who has seen firsthand the benefit these programs produce. I encourage the General Assembly to continue the Enterprise Zone Grant program and strengthen its effect by fully funding the grant awards. This will ensure these programs will have the maximum benefit to our business community in Virginia</p> <p><i>Dear Delegate</i></p> <p><i>The recently concluded study conducted by the Center for Urban and Regional Analysis (CURA) at Virginia Commonwealth University stated several key points. Foremost was the recognition of the overall success of the Enterprise Zone program. "Between 2005 and 2015 a total of \$118 million was disbursed as real property grants, which spurred private real property investments of at least \$1.25 billion." That is almost a whopping 11 to 1 return on every dollar spent by the Commonwealth!</i></p> <p><i>The study also recognized that, "Most of the success of the Enterprise Zone program comes from (RPIG) Real Property Investment Grant. RPIG has been found to significantly improve local property values. The ripple effect of the impact can be seen up to a quarter mile outside the zone boundaries."</i></p> <p><i>Unfortunately the emphasis of fully funding the competing Jobs Creation Grant has depleted dollars from the RPIG grant pool, producing a prorated award. This reduction in grant awards has been as much as 30%. The study recognizes this as a major</i></p>	<p>Commenter thanked for their participation and advised that their comments were forwarded to the Board for consideration at their April 2 meeting.</p> <p>Comments which specifically address programmatic changes are unlikely to be addressed with regulatory change and/or would require additional funding.</p>

	<p><i>weakness to the effectiveness of the RPIG program.</i></p> <p><i>The first recommendation of the study asks that the program be fully funded. Given the most recent news of a budget surplus, I ask you to consider increasing the funding pool to at least alleviate some of the proration. Also, would you please consider removing the 100% funding requirement for the Jobs Creation Grant? This program has seen its funding increased in the past 10 years to over \$3 million. This increase is negatively impacting the RPIG program. And, the study notes... "the growth in businesses did not directly translate into corresponding job growth." This is in spite of the 100% funding mandate for jobs.</i></p> <p><i>Recognizing the limited budget dollars the Commonwealth has to spend, the most effective program in the area of Enterprise Zones is the Real Property Investment Grant (RPIG). I ask you to improve this programs' effectiveness by allocating additional dollars to the RPIG. It will be money, not spent, but invested wisely for the future of the Commonwealth.</i></p>	
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No informal advisory group was formed.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

The regulation meets the criteria set out in Executive Order 17 (2014). The regulation prescribes the procedures for implementing the Enterprise Zone Grant Program regulation as required by §59.1-541 et seq. of the Code of Virginia. The regulation is clearly written and understandable.

Result

Please state that the reason why the agency is recommending that the regulation should stay in effect without change.

Based on the comments received it has been determined that the requested changes are not likely achievable through changes to the regulations.

Small business impact

In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency's consideration of: 1) the continued need for the regulation; 2) the nature of complaints or comments received concerning the regulation from the public; 3) the complexity of the regulation; 4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and 5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, include a discussion of the basis for the agency's determination to retain the regulation as is, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

- 1) The regulation is required by the Code of Virginia (§59.1-541).
- 2) Comments received addressed the following concerns: increasing the opportunities for smaller towns and rural localities, increasing the opportunities for smaller businesses, making the Zone amendment process more flexible, and increasing programmatic funding to allow for fuller funding of the Real Property Investment Grants.
- 3) The regulation is clearly written and understandable.
- 4) The regulation is required by the Code of Virginia (§59.1-541).
- 5) The regulation was promulgated in 2007 based on legislative changes made in 2005 (Acts of Assembly 2007, Ch. 863). There have been multiple changes between 2007 and present as required by changes in state code.

At its April 2, 2018 meeting the Board discussed the regulation and for the reasons previously stated, determined that the regulation should not be amended or repealed but should be retained in its current form.