

AN INVENTORY OF LOCAL-LEVEL INCENTIVES¹

1. *Good Government:* The best local incentive of all is good government. A knowledgeable business person will recognize the value of good infrastructure and good schools provided at fair tax rates. That business person will also look for a fairly consistent level of services and a stable tax structure.

2. *Cash Grants:* By providing moneys to be administered through the local industrial development authority or economic development authority (an “IDA/EDA”) or other conduit, a locality can provide indirectly what it could not provide directly; i.e. cash grants to a private entity for economic development purposes. See §§15.2-953, 15.2-1205 and 15.2-4905. Often, the cash grant is stated as being a percentage of the local taxes paid by the business over the course of a few years. If it is stated this way, the business must pay its taxes, then the locality may choose to pay the cash to the IDA/EDA, then the IDA/EDA may choose to pay the cash to the business, for the purpose of promoting economic development in the locality.

3. *Land Grants/Sales:* A locality may acquire and give land to an IDA/EDA for economic development purposes without regard to the usual requirements for the disposition of surplus property. The acquisition may not be by condemnation. See §15.2-4917. The IDA/EDA may sell, lease or give that land to a private entity for economic development purposes. See §15.2-4905 5. and 6.

The sale of the land to the private entity need not be at fair market value. An IDA/EDA may give the land to the private entity or may negotiate for any sales price, so long as that gift or sales price is being negotiated for economic development purposes. See §15.2-4905 6. Similarly, the scheduled lease payments from any private entity leasing facilities from an IDA/EDA need not reflect fair market rental values. See §15.2-4905 5.

Under §15.2-1802, a town may acquire, lease or sell land within its boundaries or within three miles of its boundaries to be used for the development of business and industry. The town must follow the typical procedures for acquiring land and must hold a public hearing, but may not acquire such land by condemnation.

4. *Industrial Parks and Shell Buildings:* An IDA/EDA may own, develop and manage an industrial park and shell buildings. It may sell, lease or give lots in the park or the shell buildings to private entities for economic development purposes. See §§15.2-4901 (ninth paragraph) and 15.2-4905 5. and 6.

§15.2-941 authorizes localities and other political subdivisions to participate in the “Virginia Shell Building Initiative.” Generally, under this program administered by the Virginia Economic Development Partnership (VEDP), a loan is made to a locality to develop a shell building to be held available for sale to an economic development prospect. The interest on the loan is paid by

¹ Prepared by the Virginia Economic Development Partnership. Adapted from Bonnie France, John O’Neill, Sandra McNinch, et al. *Economic Development Incentives in Virginia: A Local Practitioner’s Handbook*. Local Government Attorneys of Virginia Committee, Special Project. April, 2004.

the program until the maturity of the loan, generally five years, by which time it is hoped that the locality would be able to sell the shell building.²

5. *Loan Programs:* Many IDA/EDAs and regional economic development organizations have loan programs and loan guarantee programs for businesses locating to or growing in their communities. See a partial listing in the Capital Resources Directory compiled by the Virginia Small Business Financing Authority (VSBFA), which can be found at www.dba.virginia.gov/financing. Taxable and tax-exempt industrial development bond (“IDB”) financing is also available through IDA/EDAs or the VSBFA for qualifying businesses. See §15.2-4908 and §2.2-2287. An IDA/EDA may forgive loan payments for economic development purposes. See §§15.2-4905 13. and 15.2-4908.

6. *Local Enterprise Zones; Earmark Funds for Economic Development:* A locality may create a local enterprise zone. The local enterprise zone can be a State enterprise zone or a technology zone. The increase in machinery and tools taxes in the zone over a base amount may be diverted into a fund to be used to enhance, among other things, economic development efforts in the zone. In an enterprise zone, a locality may provide regulatory flexibility on zoning and permitting and may provide other incentives. See §58.1-3245.6 *et seq.*

7. *Technology Zones and Tourism Zones:* A locality may create a technology zone, which may also be a local enterprise zone, in which it may grant tax incentives for up to ten years, may provide regulatory flexibility on zoning and permitting and may provide other incentives. Technology zones may dedicate a portion of real estate or machinery and tools taxes for purposes benefitting economic development within the zone. Tourism zones offer nearly the same benefits, but may offer the incentives for twenty years instead of ten and may not dedicate a portion of tax revenues to economic development or tourism purposes. There is no requirement that the businesses taking advantage of the incentives in a technology or tourism zone be technology or tourism companies. See §§58.1-3850 and 58.1-3851.

8. *Special Tax Classifications:* Levels of machinery and tools taxes and other tax classifications can be created that will benefit a particular type of taxpayer. Any business falling within the classification will qualify for the benefit. See Article X, Section 1 of the Constitution of Virginia and §58.1-3008. Different classifications are permitted for different types of property. See Chapter 35, Title 58.1 of the Virginia Code. VEDP keeps information on the tax classifications and rates used by localities and by other states. See the VEDP website at www.yesvirginia.org.

9. *Special Utility and Other Fee Classifications:* Levels of utility fee and other local fee classifications can be created that will benefit a particular type of user. Any user falling within the classification should qualify for the benefit. *Caution:* If the user is a significant user of the utility or other local service, creating a special fee classification may have an impact on the tax-exempt status of any bonds issued to finance the utility or other service assets.

² VEDP administered more than \$10 million worth of subsidized loans to localities to build shell buildings in ten communities. The Initiative also assisted communities with design and engineering consultants to ensure quality design. With the assistance of VEDP’s marketing, these facilities became homes to several successful companies, bringing additional employment and tax revenue to communities. The projects that located in these buildings brought more than \$84 million worth of capital investment and created almost 1,700 jobs. Funding for this program has ended, but localities and IDA/EDAs have the power to construct shell buildings if they choose.

10. *Infrastructure – Utilities and Telecom:* A common incentive is an obligation to extend publicly owned/operated water, wastewater, natural gas, telecommunications/fiber, stormwater management and other utility lines to the project site and, in some cases, onto the project site. For utility systems that are not publicly owned/operated, the undertaking by the locality may be to cooperate with the private utility company to smooth the way for the utility company's expansion of its system.

A locality may acquire, establish, operate and extend water, wastewater, natural gas, electric and other public utilities within or outside the limits of the locality. See §15.2-2109 *et seq.* Many localities offer water, wastewater, stormwater and refuse services through their public service authorities. See Articles 1 through 5, Chapter 51, Title 15.2 of the Virginia Code.

There are significant restrictions of the ability of localities to provide cable services. See §§15.2-2108.3 and 2108.4. Localities that operate electric distribution systems are authorized to provide telecommunications systems and certain localities that operate telecommunications systems are authorized to provide certain indirect services. See §15.2-2160.

11. *Zoning and Land Use Actions:* Local governments can adopt overlay districts in their zoning ordinances which may provide for uses that are desirable to targeted businesses of preclude uses which a targeted business would find undesirable as an adjoining use. These districts can also have setbacks and other standards which encourage targeted uses. The locality must be mindful of the constraints of land use law on the creation of such districts, such as being consistent with the comprehensive plan avoiding making the zoning landowner-specific so that it comes illegal spot zoning; and providing uniform regulations for each class or kind of buildings and uses in a district. Notwithstanding those constraints, the locality has substantial flexibility. The locality would be wise to include an economic development chapter or plan as a part of its comprehensive plan to provide a foundation for such a district and other economic development initiatives.

Also the locality can choose to expedite the processing of land use applications, i.e. zoning and special use applications, preliminary and final subdivision and site plans and building permits. A locality would be prudent to develop a policy identifying a class of targeted businesses which could take advantage of such expedited processing. Obviously, statutory requirements of planning commission review or public hearings must be met.

The locality should not waive development fees for a targeted business but can use one of the other tools available, e.g., a pass through IDA/EDA, to fund said fees. The locality could provide for an installment payment of fees by the targeted industry but again this should be pursuant to a policy.

The targeted industry may be interested in expediting the construction of its facilities through the use of outside (third party) plan reviewers and inspectors to handle those reviews and inspections which are required by the locality's development regulations and the building code. The locality can accommodate this but should do so pursuant to a policy which requires adequate certifications of the outside inspectors and filing of certified reports for review by the locality's

inspectors and reviewers. (For example, Fairfax County has specific authority for establishment of a broad program in this regard. See §15.2-851.)

12. *Tax Exemptions for Renovation of Commercial/Industrial Structures:* Under §58.1-3221, localities may provide for the partial exemption from taxation of real estate on which any structure or other improvement no less than twenty years of age, or fifteen years of age if the structure is located in an enterprise zone, has undergone substantial rehabilitation, renovation or replacement for commercial or industrial use. The partial exemption may not exceed an amount equal to the increase in assessed value resulting from the rehabilitation, renovation or replacement of the structure as determined by the commissioner of revenue or other local assessing officer or an amount up to fifty percent of the cost of rehabilitation, renovation or replacement as determined by ordinance. These structures may be on land in need of brownfields remediation.

13. *Separate Tax Classification for Energy-Efficient Buildings:* Under §58.1-3221.2, localities may choose to levy a tax on energy-efficient buildings at a rate below the rate for the taxation of other real estate.