

# WEST VIRGINIA LEGISLATURE

## 2020 REGULAR SESSION

### Introduced

# House Bill 4445

FISCAL  
NOTE

BY DELEGATES LINVILLE, HANSHAW (MR. SPEAKER),  
SUMMERS, HOUSEHOLDER, SKAFF, MAYNARD, CRISS,  
QUEEN AND PORTERFIELD

[Introduced January 21, 2020; Referred to the  
Committee on Small Business, Entrepreneurship and  
Economic Development then Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §5B-1-9, relating to creating the Economic Diversification Act of 2020 for the  
3 purpose of income tax relief, by state, county, and municipal government, to new or  
4 existing businesses whose product or service offered is not currently offered in the state;  
5 requiring the Secretary of Commerce to appoint a commission to determine eligibility;  
6 providing that commission to be composed of government officials and private citizens;  
7 limiting the tax relief to a maximum period of eight years; and providing for rule making.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 1. DEPARTMENT OF COMMERCE.**

### **§5B-1-9. Economic Diversification Act of 2020.**

1 (a) The Department of Commerce shall develop a plan, in cooperation with the State Tax  
2 Commissioner, to determine the eligibility of new businesses, whose product or service offered is  
3 not currently offered in the state, to receive state income tax relief. Businesses that are already  
4 established in this state that are offering new products or services may be eligible for tax relief  
5 under this section.

6 (b) The Secretary of Commerce shall appoint an Economic Diversification Commission  
7 composed of three members from state government, which shall include the State Tax  
8 Commissioner, and one member from each congressional district of the state. The secretary or  
9 his or her designee shall chair the commission. The secretary shall propose rules for legislative  
10 approval in accordance with §29A-3-1 et seq. of this code to implement the purposes of this  
11 section.

12 (c) Each eligible company that seeks to qualify for the tax credit provided by this section  
13 must file a written application for approval with the commission.

14 (d) With respect to each eligible company making an application to the commission for a  
15 tax credit, the commission shall make inquiries and request documentation, including a completed  
16 application, from the applicant that shall include:

17 (1) A description and location of the new business; capital and other anticipated  
18 expenditures for the new business; or if an established business in this state, the nature of the  
19 planned product or service that is not currently offered in this state; and

20 (2) The anticipated employment and wages to be paid for the new product or services;  
21 business plans that indicate the average number of days in a year in which the project will be in  
22 operation and open to the public; and the anticipated revenues and expenses generated by the  
23 project.

24 (e) The commission shall provide a 90-day public comment period to ensure that no new  
25 business is given preference over an existing business offering the same product or service.

26 (f) The counties and municipalities may participate in this program and offer other tax  
27 relief, including property tax, business and occupation tax, fee exemptions. Counties and  
28 municipalities may not discriminate between successful applicants, and all such businesses shall  
29 be treated equally by a county or municipal government.

30 (g) The secretary, within 60 days following the end of the 90-day public comment period,  
31 and receipt of an application or receipt of any additional information requested by the commission  
32 respecting the application, whichever is later, shall act to grant or not to grant approval of the  
33 application, based on the following criteria:

34 (1) Whether the business, whose product or service offered is not currently offered in the  
35 state, will provide additional employment opportunities in the state;

36 (2) Whether there is substantial and credible evidence that the project is likely to be started  
37 and completed in a timely fashion; and

38 (3) Whether the project will, directly or indirectly, assist in the creation of additional  
39 employment opportunities in the area where the project will be located.

40 (h) The period of the tax relief shall be four calendar years. If after four years, no other  
41 business has entered West Virginia offering the same product or service, the commission shall  
42 provide another 90-day public comment period after application to the commission, the new

- 43 business shall be granted an additional four-year period of tax relief. A business may not receive
- 44 tax relief under this article for more than eight years.

NOTE: The purpose of this bill is to create the Economic Diversification Act of 2020 for the purpose of income tax relief, by state, county, and municipal government, to new or existing businesses whose product or service offered is not currently offered in the state. The bill requires the Secretary of Commerce to appoint a commission to determine eligibility. The bill provides that commission to be composed of government officials and private citizens. The bill limits the tax relief to a maximum period of eight years. The bill provides for rule making.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.