

**REPORT OF THE  
SECRETARY OF AGRICULTURE AND FORESTRY**

# **Report of the Agriculture Enterprise Act of 2005**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



## **HOUSE DOCUMENT NO. 93**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
2005**

## **PREFACE**

House Bill No. 1947 - The Agricultural Enterprise Act of 2005 directs the Virginia Department of Agriculture and Consumer Services (VDACS) to establish, as an element of the Office of Farmland Preservation, agricultural enterprise zone districts upon application by localities with established agricultural or forestal districts, locally designated agricultural enterprise districts or purchase of development rights programs.

This report was undertaken in response to the Third Enactment of House Bill No. 1947, which requests that the Secretary of Agriculture and Forestry submit a report on the initial program development required by this act. Staff at the Virginia Department of Agriculture and Consumer Services and a Governor's Fellow provided assistance to the Secretary in the completion of this report. We wish to recognize the staff who contributed their time and expertise to this effort:

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## EXECUTIVE SUMMARY

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House Bill No. 1947 – The Agricultural Enterprise Act of 2005 – establishes agricultural enterprise zone districts to promote and support the development of agricultural and farm businesses in designated areas of the Commonwealth. The Act would allow “qualified agricultural businesses” and “qualified farm businesses” that are located within agricultural enterprise zones to apply to the Virginia Department of Agriculture and Consumer Services (VDACS) for assistance in developing business plans and grant funding for implementation of the business plans, varying from 50 percent of the investment cost up to a maximum of \$500,000. “Qualified agricultural businesses” are any agricultural businesses that establish a new business operation or expand and improve an existing operation within a designated agricultural enterprise district. “Qualified farm businesses” are businesses that establish a new agricultural or forestal production operation or expand such an operation within an agricultural enterprise district.

VDACS would also have the following additional duties and responsibilities in administering this bill:

1. Establishing the criteria for what areas qualify as agricultural enterprise districts, and which criteria shall be the minimum required for implementation of the purposes of the bill
2. Monitoring the implementation and operation of the program
3. Conducting an ongoing evaluation of agricultural enterprise districts
4. Assisting localities in the designation of agricultural enterprise districts and in developing appropriate local policies and incentives to qualify
5. The administration and enforcement of regulations promulgated for the agricultural enterprise district program.

The second enactment clause of the Bill states that the provisions of the first enactment shall become effective January 1, 2007 contingent upon funding in the appropriations act of 2006-2008.

The third enactment clause requires a study and report by the Secretary of Agriculture and Forestry on the initial program development to address the responsibilities and requirements of the Act.

This report focuses on two major areas of study: A technical review of Agricultural Enterprise Zone programs developed in other states and an overview of a possible Virginia Agricultural Enterprise Zone Program based upon the traditional guidelines for the existing Virginia Enterprise Zone program for industrial development.

The study reviewed the Agriculture Enterprise Zone or Farm Enhancement programs that have been developed in Massachusetts, Michigan, Minnesota, Colorado and Wisconsin. Key points on these programs are as follows:

- Agricultural Enterprise Zone programs in Michigan, Minnesota and Colorado are specifically geared to agricultural processing and manufacturing activities that would seek to add value to raw agricultural products.
- The Massachusetts program is directed specifically to agricultural (farm) production.
- Wisconsin has the broadest program, allowing that qualifying activities include farm production, processing operations, and activities in distribution, marketing and retail sales.
- Three of these states' agriculture enterprise programs employ a tax-based incentive in the form of exemptions based upon employment creation or retention with the level ranging from \$500 - \$8,000 per job.
- Michigan's program provides a standard exemption from all state and local taxes for up to 15 years to expanding or new agricultural processing businesses.
- The Massachusetts program is structured more along the lines of a farmland preservation incentive program, providing cash payments ranging from \$20,000 - \$60,000 to put the land resources into 5-10 year agricultural covenant. This incentive program does not have any job creation or investment qualifiers.

The proposed Virginia Agricultural Enterprise Zone program would be based largely upon investment and job creation or enhancement incentives as these are the basic economic development drivers. It would be targeted toward agricultural processing businesses that would add value to raw agricultural products, thereby providing additional income potential to the farmers producing these raw agricultural products. The exception would include marketing, distribution or retail ventures that can demonstrate a value-added economic benefit.

At the outset, it is important to note that adequate funding for the VDACS Office of Farmland Preservation is paramount to the development and implementation of the Agricultural Enterprise Zone Program. Funding for this function is also critical to state-wide farm viability and enhancement efforts that might be achieved through a state Purchase of Development Rights program. Currently, there is no funding for the Office of Farmland Preservation.

### **Summary of Recommendations**

The following recommendations are presented in order to move forward in the development of a Virginia Agriculture Enterprise Development Zone program:

1. Implement an Agricultural Enterprise Zone program as resources allow
2. Target the Virginia Agriculture Enterprise Development Zone program to value-added agribusiness manufacturing, processing or packaging.
3. Use the existing Industrial Enterprise Zone as a model template for Agricultural Enterprise Zones.

4. Make use of existing public and private sector business planning and development resources in program development and implementation.
5. Utilize a state Purchase of Development Rights (PDR) Program to support agriculture production and resource protection.

# CHAPTER ONE:

## OVERVIEW OF STATE AGRICULTURE ENTERPRISE/BUSINESS ZONES

This Chapter presents an overview of Agricultural Enterprise Zone Programs in other states in order to gain information potentially relevant to the development of a Virginia program. Agricultural Enterprise Zone programs or variants of these programs are currently in place or in the implementation phase in the states of Massachusetts, Wisconsin, Michigan, Minnesota and Colorado. A synopsis of these programs is as follows:

### **Massachusetts Farm Viability Enhancement Program**

{Farmers apply and are accepted into the Farm Viability Program. They develop viability plans then agree to put their land in 5 or 10-year land covenant programs in exchange for up to \$60,000}

- Purpose
  - Improve the economic bottom line and environmental integrity of farms through the development of Farm Viability Plans
- Eligibility
  - Applicant must own or be a co-applicant with the owner of at least five acres of land in agricultural use
- Selection Criteria
  - Number of acres planted in the program
  - Location, physical features and soil classification of the land
  - Degree of threat to the land due to financial stability, urban encroachment or management changes
  - Environmental objectives such as protection of water resources or flood plains and preservation of historical open space and aesthetic amenities
- Application Procedure
  - Anyone can apply
  - Complete Application which includes:
    - Topographical Map of property
    - USDA Natural Resources and Conservation Service Map showing soil types and acreage
    - Full description of current agricultural activities (types and quantities of crops/number of livestock)
    - Statement of how the farm would economically and environmentally benefit from the Program
    - Current financial statements including gross farm income and any farm debt
    - Mission statement
    - Statement of the short and long-term plans for the farm
    - Copy of current deeds on the property





youths from low-income families, W2 participants and economically disadvantaged veterans and ex-felons

- Tax Credit System
  - Two-tiered
    - \$6,000 tax credit for each newly created full-time position (non-target group member)
    - \$8,000 tax credit for each newly created full-time position filled by a member of the “target group”
- Application Process
  - Contact your Agricultural Development Zone Coordinator
  - Fill out the application with the coordinator
  - Submit application, once approved you can begin your project and know your tax credit allocation
- Personnel
  - Four Agricultural Development Zone Coordinators located in the Zones
  - Two Development Zone Managers located in the Department of Commerce

### **Michigan Tax-Free Agricultural Processing Renaissance Zones**

{Agricultural Processing Renaissance Zones are an addition to the Michigan Renaissance Zone Act. They are exempt from all state and local taxes for up to 15 years for qualified agriculture processors who want to expand or begin operations}

- Purpose
  - To keep Michigan’s raw commodities in the state and improve markets and profitability for Michigan’s farmers
- Eligibility
  - There must be an agricultural processing facility located in the zone or a plan to create a zone in the area
  - Up to 20 zones are allowed anywhere in the state

### **Minnesota Agricultural Processing Facility Zones**

{An addition to the JOBZ Act, which was created for job growth. The Agricultural Processing Facility Zones are used to assist agricultural processing businesses in setting up new facilities in Minnesota}

- Purpose
  - To offer incentives to agricultural processing businesses to locate in Minnesota in one of the Zones
- Eligibility
  - The Commissioner of Department of Employment and Economic Development can designate agricultural processing zones at any time
  - Zones are limited only to businesses that are involved in agricultural processing
- Status
  - 4 Zones can be created, as of 2004 only 1 zone had been designated

## **Colorado New Business Facility Agricultural Processing Employee Credit**

{Any business that adds value to agricultural products through manufacturing or processing can receive up to \$1,000 employee credit}

- Purpose
  - To encourage and support value added agricultural processing and manufacturing in Colorado
- Eligibility
  - A new business facility that is engaged in a business that adds value through manufacturing or processing agricultural commodities
  - It is not available to businesses that distribute agricultural products into the market without changing the original form of the product
- Enhanced Rural Enterprise Zones
  - To be considered an Enhanced Rural Enterprise Zone, a rural area of Enterprise Zone must meet two of the following criteria:
    - County unemployment rate is at least 50% above state average
    - County population growth rate is less than 25% above the state average
    - County average per capita income is less than 75% of the state average
    - County assessed value of nonresidential value ranks in the bottom half of all counties in the state
    - County population is 5,000 or less
  - If you locate in an Enhanced Rural Enterprise Zone then you will be eligible for an additional new business employee tax credit
- Employee Tax Credits
  - \$500 credit for each new business facility employee hired
  - Additional \$500 employee tax credit for employee hired by a New Business Facility Agricultural Processing (total \$1,000)
  - Additional Employee tax credit for employees hired in Enhanced Rural Enterprise Zones

The review of these Agriculture Enterprise Zones or Farm Enhancement programs found that the programs generally are divided among two basic areas. Most of the programs have a basic focus of support for the economic development of value-added agricultural processing industries. The programs in Michigan, Minnesota and Colorado are specifically geared to agricultural processing and manufacturing activities that would seek to add value to raw agricultural products.

Two of these programs provided support for farm production activities either exclusively or in combination with agricultural processing. The program in Massachusetts is directed specifically to agricultural (farm) production. Wisconsin has the broadest program, allowing that qualifying activities include farm production, processing operations, and activities in distribution, marketing and retail sales.

Three of these states' agriculture enterprise programs employ a tax-based incentive as the primary business enhancement measure. The tax incentives largely come in the form of exemptions based upon employment creation or retention with the level ranging from \$500 - \$8,000 per job. While utilizing a tax based incentive, Michigan's program takes a different approach in that it provides a standard exemption from all state and local taxes for up to 15 years to expanding or new agricultural processing businesses.

The Massachusetts Farm Viability Enhancement Program is structured more along the lines of a farmland preservation incentive program than a traditional enterprise zone program. The program is similar in nature to the Purchase of Development Rights programs employed by several Virginia localities in farmland preservation and farm sustainability activities. As previously indicated this program is geared solely to farm production and provides cash payments ranging from \$20,000 - \$60,000 to put the land resources into 5-10 year agricultural covenants. The payment level is scaled upon the length of time and the amount of land designated under the agricultural use covenant. This incentive program is not based upon economic or business development measures since it does not entail any job creation or investment qualifiers.

## CHAPTER TWO:

### VIRGINIA AGRICULTURAL ENTERPRISE ZONE DISTRICTS

The proposed Virginia Agricultural Enterprise Zone program would be based largely upon investment and job creation or enhancement incentives as these are the basic economic development drivers. It would be targeted toward agricultural processing businesses that would add value to raw agricultural products, thereby providing additional income potential to the farmers producing these raw agricultural products. The exception would include marketing, distribution or retail ventures that can demonstrate a value-added economic benefit.

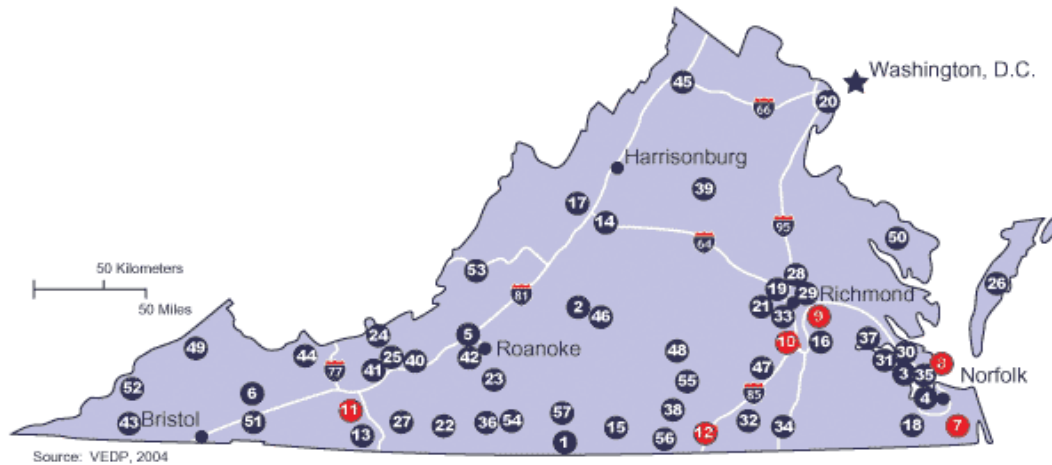
A basic framework for a Virginia Agriculture Enterprise Zone District Program is presented below. This framework draws heavily from the existing Industrial Enterprise Zone Program, while targeting value-added and high value agribusiness ventures. It is assumed that this Agriculture Enterprise District Zone Program would be administered by the Virginia Department of Housing and Community Development with input and guidance from the Department of Agriculture and Consumer Services.

- ◆ Purpose
  - To attract, promote, retain and encourage the expansion of value added agricultural processing and manufacturing in the Commonwealth of Virginia
  - To stimulate agricultural processing and manufacturing growth, commercial and economic revitalization of certain areas of the Commonwealth by the means of incentives awarded for job creation and capital investment
- ◆ Eligibility
  - A new or existing business facility that is located in an existing Enterprise Zone that adds value to agricultural commodities through manufacturing or processing.
  - The business has to change the original form or presentation of the agriculture product before it enters the market. Examples would include processing, special packaging or other operations that enhance product quality and market appeal.
- ◆ Virginia Agricultural Enterprise Zone Districts
  - There is a limit of twenty Agricultural Enterprise Zone Districts that can be created in Virginia
  - To be considered a Virginia Agricultural Enterprise Zone District the county, city or town must be located in an existing Enterprise Zone and must meet two of the following criteria:

- County, city or town unemployment rate is at least 50% above the state average
  - County, city or town population growth rate is less than 25% above the state average
  - County, city or town average per capita income is less than 75% of the state average
  - County, city or town assessed value of nonresidential value ranks in the bottom half of all counties/regions in the state
  - County, city or town population is 5,000 or less
  
- ◆ State Incentives for Enterprise Zones
  - Ten-year general income tax credit against state tax liability in an amount up to 80 percent in year one and 60 percent in years two through ten. For businesses investing \$15 million and creating or retaining 50 jobs the amount of credit is subject to negotiation between the business and Department of Housing and Community Development
  - Real property improvement tax credit equal to an amount of up to 30 percent of qualified improvements to real property with a maximum amount of up to \$125,000 within a five-year period. For rehabilitation projects the business must be an owner-occupant of the property or a tenant making leasehold improvements
  - Investment tax credit against state tax liability for businesses investing \$100 million and creating or retaining 200 jobs. The percentage amount is negotiable and could be worth up to five percent of the investment
  - Job grants of up to a total of \$100,000 per year for full-time, permanent employment positions created by new or expanding businesses. Grant amounts equal \$1,000 for zone residents employed and \$500 for any other positions for each year of a three year period
  - If the new or existing business facility is located in a Virginia Agricultural Enterprise Zone District and adds value to agricultural commodities through manufacturing or processing an additional \$500 grant per job will be awarded for full-time job creation/retention for each year of a three-year period
  - If the new or existing business facility is located in a Virginia Agricultural Enterprise Zone District and adds value to agricultural commodities through manufacturing or processing an additional \$500,000 will be available for capitol investment
  
- ◆ Administration
  - Agricultural Enterprise Zone Districts will be administered at the local level by the existing Local Zone Administrator, as of April 2005 there were 57 Local Zone Administrators
  - The local zone administrators will assist businesses in the application process and report to the Department of Housing and Community Development and to the Virginia Department of Agriculture and Consumer Services

- The Department of Housing and Community Development will be required to consult with the Virginia Department of Agriculture and Consumer Services to determine which county, city or town may become an Agricultural Enterprise Zone District
- ◆ Application Procedure
  - Qualified businesses will work with the local enterprise zone administrator to complete the application process
  - A completed application will include:
    - Business plan and mission statement
      - Business plan assistance is offered by the Virginia Small Business Development Centers, Virginia Cooperative Extension and private development foundations
    - Full description of current agricultural processing and manufacturing abilities
    - Statement of how the business will economically enhance the community
    - The number of full time positions that will be created as a result of the business operations
    - County, city or town unemployment rate
    - County, city or town population growth rate
    - County, city or town average per capita income
    - County, city or town assessed value of nonresidential value
    - County, city or town population
    - Statement of short and long term goals for the business

## Enterprise Zones



- |                            |  |   |
|----------------------------|--|---|
| 1 Danville                 | 18 Suffolk                             | 41 Town of Pulaski  |
| 2 46 Lynchburg             | 19 29 Richmond                         | 43 Scott  |
| 3 30 31 Newport News       | 28 Richmond/Henrico                    | 44 Tazewell   |
| 4 Norfolk / Portsmouth     | 20 Alexandria                          | 45 Warren   |
| 5 42 Roanoke               | 21 33 Chesterfield                     | 47 Dinwiddie / Petersburg   |
| 6 Saltville / Smyth County | 22 Patrick/Stuart                      | 48 Charlotte / Lunenburg / Prince Edward                                      |
| 7 Chesapeake               | 23 Rocky Mount                         | 49 Dickenson / Clintwood / Haysi  |
| 8 35 Hampton               | 24 Narrows                             | 50 Lancaster / Northumberland / Richmond / Westmoreland / Kilmarnock / Warsaw |
| 9 Hopewell                 | 25 40 Pulaski                          | 51 Smyth / Washington / Chilhowie / Glade Spring                              |
| 10 Petersburg              | 26 Accomack / Northampton              | 52 Wise   |
| 11 Carroll / Wythe         | 27 Carroll / Hillsville                | 53 Alleghany / Clifton Forge / Covington                                      |
| 12 South Hill              | 32 Brunswick / Lawrenceville           | 55 Lunenburg / Kenbridge / Victoria   |
| 13 Galax                   | 34 Greensville                         | 56 Mecklenburg / Clarksville  |
| 14 Waynesboro              | 36 54 Martinsville / Henry             | 57 Pittsylvania / Danville  |
| 15 Halifax / South Boston  | 37 James City                          |   |
| 16 Prince George           | 38 Mecklenburg / South Hill / LaCrosse |   |
| 17 Staunton                | 39 Town of Orange                      |   |

\*Taken from the Department of Housing and Community Development Website:  
<http://www.dhcd.virginia.gov/EZones/Zones%20Map1.htm>

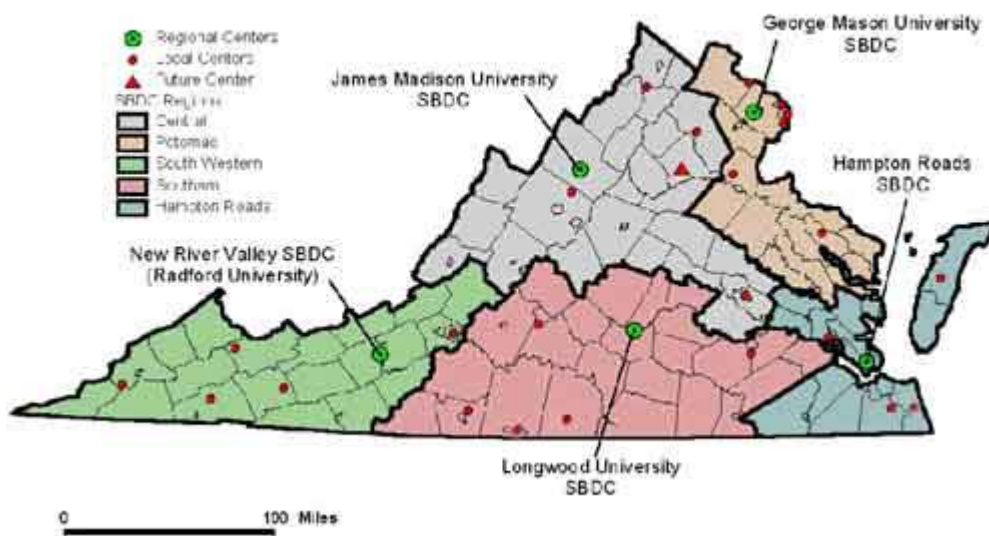
## CHAPTER THREE

### BUSINESS PLANNING AND DEVELOPMENT

Assistance with general business planning and development is a critical component in the development of new or expanded agribusiness enterprises. Key functions in business planning include the development and analysis of feasibility studies, market analysis, capitalization and finance, management requirements and business organization.

The Virginia Small Business Development Center Network has often been utilized in providing business assistance and counseling for new and expanding businesses. As indicated below, the Small Business Development Center (SBDC) Network extends across the state and is often affiliated with the business development activities of Virginia's colleges.

#### VIRGINIA SBDC NETWORK Regions by Area Served



\* Taken from VA Small Business Development Center website at [www.virginiasbdc.org](http://www.virginiasbdc.org)

**Overview of the VA Small Business Development Center**



For established firms, emerging companies or aspiring entrepreneurs, the Virginia SBDC is the place where businesses go to talk business. Counseling, training and information resources are the hallmarks of the SBDC program. Business owners and managers can count on professional guidance, experienced insight, practical solutions and respect for confidentiality when they work with a Virginia SBDC.

### **SBDC Counseling Services**

Business management counseling is the premier offering of the Virginia SBDC network. The depth and breadth of the SBDC network ensures that businesses across Virginia can tap into a variety of expertise including strategic and business planning, marketing, operations, accounting and recordkeeping, financial analysis, international trade, manufacturing, government procurement and access to capital.

All Virginia SBDC professional counselors have extensive business experience and many have personal business ownership in their backgrounds. In addition, private sector professionals are also available to meet with and advise business owners.

### **SBDC Training Programs**

Many business topics are best addressed in small group settings with time and attention focused on the details of the topic. The SBDCs offer 2 hour to 4 hour training programs and seminars on a variety of topics including business planning, marketing, management, legal considerations, accounting and bookkeeping, financial analysis, technology, access to capital, and business basics. Subject area experts deliver training programs for the Virginia SBDCs.

### **Virginia Cooperative Extension**

Virginia Cooperative Extension, administered through Virginia Tech and Virginia State University, provides farm business management and marketing programs to farmers across the Commonwealth. Area Farm Business Management Agents and Specialists provide programmatic and consultative services through 107 county extension offices and 13 Agricultural Research and Extension Centers located throughout Virginia.

Specific Virginia Cooperative Extension program activities and resources in Farm Business Management and Marketing include:

- Budgets
- Estate Planning
- Financial Management
- Government Programs
- Labor

- Leasing
- Machinery
- Marketing
- Risk Management
- Taxes and Law

### **Private Cooperative Development Foundations**

Several private sector agricultural foundations and organizations have initiated agribusiness and entrepreneurial assistance programs geared to the development of agricultural cooperatives and cooperative-like businesses. The Southern States Foundation has received funding from USDA to establish a cooperative center for the development of agricultural cooperatives in the Mid-Atlantic and Southeast U.S. The Foundation provides technical and consultative services in feasibility analysis, market analysis and business organization. They were successful in assisting with the establishment of the Virginia Poultry Growers Cooperative in the Shenandoah Valley.

The Virginia Farm Bureau's Foundation for Agriculture, Innovation and Rural Sustainability (FAIRS) recently received USDA support for the Virginia Cooperative Development Center. FAIRS is actively working on several value-added cooperative-like agricultural business projects in meat production/ processing, aquaponic greenhouse production, lamb marketing cooperative, agricultural bio-energy and fruit/vegetable processing. Virginia FAIRS provides assistance in applied business research and feasibility, business organization, training, marketing services and finance/capitalization for agribusiness cooperative development.

## CHAPTER FOUR

### RECOMMENDATIONS

**At the outset, it is important to note that adequate funding for the VDACS Office of Farmland Preservation is paramount to the development and implementation of an Agricultural Enterprise Zone Program. Funding for this function is also critical to state-wide farm viability and enhancement efforts that might be achieved through a state Purchase of Development Rights program.**

Based upon the research of other state agriculture enterprise zone programs, information on Virginia's existing Industrial Enterprise Zone Program and existing public and private sector business development, the following recommendations are presented for consideration:

1. Implement an Agricultural Enterprise Zone program as resources allow.
2. Target the Virginia Agriculture Enterprise Development Zone program to value-added agribusiness manufacturing, processing or packaging. This recommendation follows the basic guidelines set forth by the majority of other state programs.
3. Use the existing Industrial Enterprise Zone as a model template for Agricultural Enterprise Zones, utilizing existing resources and staff expertise in the Department of Housing and Community Development in consultation with the Virginia Department of Agriculture and Consumer Services.
4. Fully utilize both public and private sector existing business planning and development resources in the development and implementation of an Agriculture Enterprise Zone program.
5. Utilize a state Purchase of Development Rights Program to support agriculture production and resource protection. This recommendation is covered in greater detail in the Executive report, "A Model Purchase of Development Rights (PDR) Program for Virginia," to be issued by the Secretary of Agriculture and Forestry. The original version of this document can be found at the Virginia Department of Agriculture and Consumer Services website, [www.vdacs.virginia.gov](http://www.vdacs.virginia.gov) .

## APPENDIX I

### CHAPTER 3.4. AGRICULTURAL ENTERPRISE ACT OF 2005.

§ [3.1-18.13](#). *Definitions.*

*As used in this chapter:*

*"Agricultural business" means any sole proprietorship, corporation, partnership, electing small business (Subchapter S) corporation, or limited liability company engaged primarily in the business of agritourism, the processing of agricultural or forestal products, or the wholesale or retail sale of agricultural or forestal products.*

*"Agricultural enterprise district" means an area declared by the Governor to be eligible for the benefits of this chapter.*

*"Agricultural production" means the production for commercial purposes of agricultural products, and includes the processing or retail sale by the producer of agricultural products that are produced on the parcel or in an agricultural enterprise district.*

*"Agricultural products" means crops, livestock, and livestock products, including, but not limited to, field crops, fruits, vegetables, horticultural specialties, cattle, sheep, hogs, goats, horses, poultry, furbearing animals, milk, eggs, aquaculture, and furs.*

*"Board" means the Board of Agriculture and Consumer Services.*

*"Department" means the Department of Agriculture and Consumer Services.*

*"Farm business" means any sole proprietorship, corporation, partnership, electing small business (Subchapter S) corporation, or limited liability company engaged primarily in the business of agricultural or forestal production in the Commonwealth.*

*"Forestal production" means the production for commercial purposes of forestal products and includes the processing or retail sales, by the producer, of forestal products that are produced on the parcel or in an agricultural enterprise district.*

*"Forestal products" means, but is not limited to, saw timber, pulpwood, posts, firewood, Christmas trees, and other tree and wood products for sale or for farm use.*

*"Local zone administrator" means the chief executive of the locality in which an agricultural enterprise district is located, or his designee.*

*"Qualified agricultural business" means an agricultural business designated as a qualified agricultural business by the Department pursuant to this chapter that also meets the definition of small business as defined in the Code of Federal Regulations, Title 13, Part 121, as amended.*

*"Qualified farm business" means a farm business designated as a qualified farm business by the Department pursuant to this chapter that also meets the definition of small business as defined in the Code of Federal Regulations, Title 13, Part 121, as amended.*

*"Secretary" means the Secretary of Agriculture and Forestry.*

*§ [3.1-18.14](#). Administration.*

*The Department shall administer this chapter as an element of the Office of Farmland Preservation (§ [3.1-18.9](#) et seq.) with the assistance and cooperation of the Department of Forestry, Department of Business Assistance, Department of Minority Business Enterprise, and Virginia Cooperative Extension. The Virginia Agricultural Enterprise Program is herein established in order to administer the provisions of this chapter. The Department shall have the following powers and duties:*

- 1. To establish criteria for determining what areas qualify as agricultural enterprise districts, and which criteria shall be the minimum required for implementation of the purposes of this chapter;*
- 2. To monitor the implementation and operation of this chapter;*
- 3. To conduct a continuing evaluation program of agricultural enterprise districts;*
- 4. To assist localities in the designation of agricultural enterprise districts and in developing appropriate local policies and incentives to qualify for such designation; and*
- 5. To administer and enforce the regulations adopted pursuant to this chapter.*

*§ [3.1-18.15](#). Agricultural enterprise district designation.*

*A. Any locality that has established (i) an agricultural or forestal district pursuant to Chapter 43 (§ [15.2-4300](#) et seq.) or Chapter 44 (§ [15.2-4400](#) et seq.) of Title 15.2, (ii) a locally designated agricultural enterprise district, or (iii) a purchase of development rights program to extinguish nonagricultural uses may make written application to the Department to have any such district or area declared to be an agricultural enterprise district. Such application shall include a description of the location of the district or area in question, and a general statement identifying proposed local incentives and policies to complement the state and any federal incentives.*

*B. Local incentives and policies that meet the requirements of this section may include, but are not limited to, (i) rural land use plans or overlay districts that minimize nonagricultural or nonforestal uses or nonfarm residential densities that are suburban in nature; (ii) capital improvement plans that support the retention or development of agricultural infrastructure, such*

*as rural roads and bridges, agricultural drainage systems, and adequate water supplies; (iii) land use policies including comprehensive plan sections and zoning ordinances that minimize nonagricultural uses of land or nonfarm residential densities within agricultural enterprise districts; (iv) local funding for the purchase of agricultural easements or purchase of development rights programs; and (v) local agricultural economic development officers and programs. Localities shall enact at least two of the above policies to qualify for designation as an approved agricultural enterprise district.*

*§ [3.1-18.16](#). Expansion of agricultural enterprise districts.*

*Upon designation of an area as an agricultural enterprise district, the local governing body may make written application to the Department to expand the area of the agricultural enterprise district. Such application for expansion shall be considered by the Department in accordance with the requirements of §§ [3.1-18.15](#) and [3.1-18.17](#) and such regulations as may be applicable.*

*§ [3.1-18.17](#). Application review.*

*A. The Department shall review each application upon receipt and shall secure any additional information that the Department deems necessary for the purpose of determining whether the area described in the application qualifies to be declared an agricultural enterprise district.*

*B. The Department shall complete review of the application within 60 days of the last date designated for receipt of an application. After review of the applications, the Department shall forward to the Governor those applications that meet the basic requirements for designation as an agricultural enterprise district. The Secretary shall recommend to the Governor within 30 days those applications with the greatest potential for accomplishing the purpose of this chapter. If an application is denied, the governing body shall be informed of that fact, together with the reasons for the denial.*

*§ [3.1-18.18](#). Government assistance; prohibition.*

*There shall be no duplication of existing state tax incentives or grants to qualified farm businesses or qualified agricultural businesses that locate in an agricultural enterprise district.*

*§ [3.1-18.19](#). Regulations.*

*Regulations prescribing procedures effectuating the purpose of this chapter shall be adopted by the Board in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.).*

*§ [3.1-18.20](#). Eligibility; qualified agricultural business.*

*A. Any agricultural business may be designated a qualified agricultural business for purposes of this chapter if it establishes a new business operation or plans to expand and improve an existing operation within a designated agricultural enterprise district.*

*B. After designation as a qualified agricultural business pursuant to this section, each agricultural business in a designated agricultural enterprise district may submit to the Department a written application for assistance in developing a new business plan and grant funding for implementation of that plan through the Virginia Agricultural Enterprise Program. A copy of the statement submitted by each agricultural business to the Department shall be forwarded to the district administrator.*

*§ [3.1-18.21](#). Eligibility; qualified farm business.*

*A. Any farm business may be designated a qualified farm business for purposes of this chapter if it establishes a new agricultural or forestal production operation or plans to expand or improve an existing operation within a designated agricultural enterprise district.*

*B. After designation as a qualified farm business pursuant to this section, each farm business in an agricultural enterprise district shall submit to the Department a written application for assistance in developing a new business plan and grant funding for implementation of that plan through the Virginia Agricultural Enterprise Program. A copy of the statement submitted by each farm business to the Department shall be forwarded to the district administrator.*

*§ [3.1-18.22](#). Agricultural enterprise district grant.*

*A. As used in this section "agricultural enterprise grant" means a grant to implement the new business plans developed through the Virginia Agricultural Enterprise Program for up to 50 percent of the associated costs to qualified agricultural businesses and to qualified farm businesses, not to exceed \$500,000.*

*B. The Department shall establish policies and procedures for approving applications for the development of business plans and grants to qualified farm and agricultural businesses.*

*C. Actions of the Department relating to the approval or denial of applications under this chapter shall be exempt from the provisions of the Administrative Process Act (§ [2.2-4000](#) et seq.).*

*§ [3.1-18.23](#). Confidentiality of information; penalty.*

*Except in accordance with proper judicial order or as otherwise provided by law, any employee or former employee of the Department shall not divulge any information acquired by him in the performance of his duties with respect to the tax liability, employment, property, business plan, or income of any farm or agricultural business submitted to the Department pursuant to this chapter. Any person violating this section shall be guilty of a Class 2 misdemeanor. The provisions of this section shall not be applicable, however, to:*

*1. Acts performed or words spoken or published in the line of duty under law;*

2. *Inquiries and investigations to obtain information as to the implementation of this chapter by a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study, provided that any such information shall be privileged;*

3. *Disclosures of information to the Department of Taxation as may be required to implement the provisions of this chapter; or*

4. *The publication of statistics so classified as to prevent the identification of a particular farm or agricultural businesses.*

*§ [3.1-18.24](#). Local incentives.*

*A. In making an application for designation as an agricultural enterprise district, the applying locality or localities may propose local tax incentives, including, but not limited to: (i) reduction of permit fees; (ii) reduction of user fees; (iii) reduction of the business, professional, and occupational license tax; (iv) partial exemption from taxation of substantially rehabilitated real estate pursuant to § [58.1-3221](#); and (v) adoption of a local agricultural enterprise district development taxation program pursuant to Article 4.2 (§ [58.1-3245.6](#) et seq.) of Chapter 32 of Title 58.1, mutatis mutandis. The extent and duration of such incentive proposals shall conform to the requirements of the Constitution of Virginia and the Constitution of the United States.*

*B. In making application for designation as an agricultural enterprise district, such application may also contain proposals for regulatory flexibility, including, but not limited to: (i) special zoning districts; (ii) permit process reform; (iii) exemptions from local ordinances not including ordinances designed to reduce pollution or to protect or restore water quality, air quality, and natural resources; and (iv) other public incentives proposed in the locality's application, which shall be binding upon the locality upon designation of the agricultural enterprise district.*

*C. A locality may establish eligibility criteria for local incentives for farm and agricultural businesses that are the same as the criteria for eligibility for grants or other benefits provided by this chapter.*

*§ [3.1-18.25](#). Review and termination of agricultural enterprise districts.*

*A. Upon designation of an area as an agricultural enterprise district, the proposals for regulatory flexibility, tax incentives, and other public incentives specified in this chapter shall be binding upon the local governing body to the extent and for the period of time specified in the application for district designation. If the local governing body is unable or unwilling to provide the regulatory flexibility, tax incentives, or other public incentives as proposed in the application for district designation, the agricultural enterprise district shall terminate. Qualified farm or agricultural businesses located in such district shall be eligible to receive the state grants provided by this chapter even though the district designation has terminated. No farm or agricultural business may become a qualified farm or agricultural business after the date of district termination. The governing body may amend its application with the approval of the Department, provided the governing body proposes an incentive equal or superior to the unamended application.*



*B. The Department shall annually review the effectiveness of state and local incentives in increasing investment in each agricultural enterprise district, and the Secretary shall annually report its findings to (i) the Senate Finance Committee, (ii) the Senate Committee on Agriculture, Conservation and Natural Resources, (iii) the House Finance Committee, and (iv) the House Committee on Agriculture, Chesapeake and Natural Resources. If no farm or agricultural businesses in an agricultural enterprise district have qualified for benefits provided pursuant to this chapter within a five-year period, the Department shall terminate that agricultural enterprise district designation.*

2. That the provisions of the first enactment of this act shall become effective on January 1, 2007, provided funding for these provisions is included in the appropriations act for fiscal years [2006-2008](#).

3. That the Secretary of Agriculture and Forestry shall: (i) develop criteria for the designation of qualified agricultural enterprise districts; (ii) develop criteria for determining qualified agricultural and farm businesses; (iii) determine the types of business improvements and investments, including thresholds, that will qualify for the program; (iv) develop a process by which an applicant is assisted in the development of a qualified business plan including the functions and responsibilities of state employees and departments and outside advisors that will provide the necessary professional advice for a successful investment; (v) provide guidance for local governments in the development and establishment of the local components of the program, including minimum criteria for district designation; and (vi) recommend such other actions as may be necessary and appropriate to procure the assistance and services and reports provided for in the enactment of this act.

4. That the Secretary of Agriculture and Forestry shall submit a report, no later than January 1, 2006, on the initial program development required by this act to the Governor; the chairmen of the Senate Committee on Finance; the Senate Committee on Agriculture, Conservation and Natural Resources; the House Committee on Finance; the House Committee on Agriculture, Chesapeake and Natural Resources; and any other such entity designated by the Governor.

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## Appendix II

### Department of Planning and Budget 2005 Fiscal Impact Statement

1. **Bill Number:** HB 1947
 

<b>House of Origin</b>	Introduced	Substitute	Engrossed
<b>Second House</b>	In Committee	Substitute	x Enrolled
  
2. **Patron:** Saxman
  
3. **Committee:** Passed both Houses
  
4. **Title:** Agricultural Enterprise Act of 2005; penalty
  
5. **Summary/Purpose:** The bill directs the Department of Agriculture and Consumer Services to establish, as an element of the Office of Farmland Preservation, agricultural enterprise districts upon application by localities with established agricultural or forestal districts, locally designated agricultural enterprise districts, or purchase of development rights programs. "Qualified agricultural businesses" and "qualified farm businesses" located in such districts may apply to the department for assistance in developing a new business plan and grant funding for implementation of that plan, up to a maximum \$500,000. "Qualified agricultural businesses" are agricultural businesses that establish a new business operation or expand and improve an existing operation within a designated agricultural enterprise district. "Qualified faun businesses" are businesses that establish a new agricultural or forestal production operation or expand such an existing operation within an agricultural enterprise district. The enrolled bill includes an enactment clause that delays the effective date of the bill to January 1, 2007, provided that funding is included in the Appropriation Act for fiscal years 2006 - 2008. The enactment clauses also require a report on initial program development from the Secretary of Agriculture and Forestry by January 1, 2006.
  
6. **Fiscal impact:** Estimates are preliminary.
  - 6a. **Expenditure Impact:** (See item 8 for explanation)
 

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2004-05	\$0	---	---
2005-06	\$670,000	2	General Fund
2006-07	\$2,340,000	4	General Fund
2007-08	\$2,340,000	4	General Fund
2006-07	\$2,340,000	4	General Fund
2007-08	\$2,340,000	4	General Fund
  
  - 6b. **Revenue Impact:** Unknown at this time, see item 8.
  
7. **Budget amendment necessary:** No.

**8. Fiscal implications:** The bill provides that localities may apply to the Department of Agriculture and Consumer Services for designation of districts or areas as "agricultural enterprise districts." In addition, any qualified agricultural business or qualified farm business within an agriculture enterprise district may apply to the department for assistance with developing a business plan and a grant to implement the plan. Grants to implement the business plans are set at 50 percent of costs, not to exceed \$500,000 per grant.

It is difficult to determine the fiscal impact of the bill, given the uncertainty of the number of counties that might request agriculture enterprise designations and the number of farm businesses and agricultural businesses that would request business planning services and implementation grants from the Department of Agriculture and Consumer Services. Currently, 28 counties and the City of Virginia Beach have agricultural and forestal districts or purchase of development rights programs and would qualify to request designation as an agriculture enterprise district. Because there is no minimum investment requirement for qualifying businesses to receive planning assistance or to be eligible for grant funds, it is likely that there will be a large demand for these services and grants.

The department estimates that program start-up will require 2 full-time positions, one for the administration of the agriculture enterprise districts and a second position to manage the first year of the business planning assistance and implementation grants. Total costs for the positions are estimated at \$170,000. In addition, it is estimated that \$500,000 in grant funding would be needed for the first year. Because of the expected demand for the grant funding and anticipated high participation in the program, the department estimates that four positions would be needed in subsequent years, and the grant allocation would need to be increased to at least \$2 million per year, based on the experience of the department with the agriculture community.

Implementation of the program may result in increased tax revenue to the state because of improved economic viability for the qualified businesses. However, any increase in general fund revenue cannot be determined.

**9. Specific agency or political subdivisions affected:** Department of Agriculture and Consumer Services, Department of Forestry, the 28 counties with agricultural and forestal districts or purchase of development rights programs, and the City of Virginia Beach.

**10. Technical amendment necessary:** No.

**11. Other comments:** None.

**Date:** 3/2/05 kbs

**Document:** G:\05 Fis\Hb1947er.Doc

cc: Secretary of Agriculture and Forestry