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HOUSE BILL NO. 166

Offered January 9, 2008

Prefiled December 26, 2007

A BILL to amend the Code of Virginia by adding a section numbered 2.2-2238.2, relating to investments in venture capital funds and guarantees by the Commonwealth for such investments.

 Patron—Purkey

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 2.2-2238.2 as follows:**

§ 2.2-2238.2. Program for investment in venture capital funds.

A. For purposes of this section:

"Covered investments" means the principal amount of investments for which the Commonwealth has made investment return guarantees under this section.

"Eligible entity" means a pension fund, endowment fund of an educational institution, or other institution or entity primarily involved in the business of investing money or securities. An eligible entity shall not include an individual. The Authority shall determine whether or not an entity is an eligible entity.

"Eligible venture capital fund" means an investment fund that (i) establishes or maintains an office in the Commonwealth; (ii) has an established history of investing in businesses or industries that, at the time of its investment, are at an early stage in regard to the number of years of existence of the business or, in the case of industries, as measured by the availability of similar goods and services; and (iii) enters into a contract with the Authority under which it promises to use its best efforts to invest three times the amount of the covered investments deposited with it in technology firms located in the Commonwealth.

"Technology firms" means, but is not limited to, aerospace, biotechnology, energy, environmental and information technologies, high performance manufacturing, telecommunications, and transportation businesses.

B. The Authority shall determine whether or not a venture capital fund is an eligible venture capital fund. The Authority shall not designate any venture capital fund as an eligible venture capital fund unless such fund enters into a contract with the Authority in which it promises to (i) use its best efforts to invest three times the amount of the covered investments deposited with it in technology firms located in the Commonwealth and (ii) provide a written report to the Authority on a quarterly basis indicating the amount of principal invested with it to which the financial guarantees of this section apply. The written report shall be prepared for the current calendar year and shall list the amount of such principal invested both on a quarterly and yearly basis.

Immediately after entering into a contract with an eligible venture capital fund, the Authority shall provide a copy of the contract to the Governor and the Chairmen of the Senate Committee on Finance and House Committee on Appropriations. The Authority shall also as soon as practicable provide to the Governor and the Chairmen a copy of the written report indicating the amount of covered investments. The Authority shall maintain a current list of eligible venture capital funds on its website.

C. For any principal invested by an eligible entity in an eligible venture capital fund between January 1, 2008, and January 1, 2013, the Commonwealth shall guarantee that the entity realizes the following rates of return on such principal investment:

1. For any eligible entity incorporated or organized under the laws of the Commonwealth or with its administrative headquarters located in the Commonwealth, the Commonwealth shall make a financial guarantee that the average annual rate of return on principal invested by the entity in an eligible venture capital fund shall be no less than 10 percent for the 10-year period beginning on January 1 of the year immediately following the year of such principal investment.

2. For all other eligible entities, the Commonwealth shall make a financial guarantee that the average annual rate of return on principal invested by the entity in an eligible venture capital fund shall be no less than zero percent for the 10-year period beginning on January 1 of the year immediately following the year of such principal investment.

The rates of return described in subdivisions 1 and 2 shall be determined by aggregating all principal investments, and returns realized on such investments, made by an eligible entity in an eligible venture capital fund.

Not later than 30 days after the end of any such 10-year period, the Authority shall provide a

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59 *written certification to the Governor and the Chairmen indicating actual returns realized and whether or*
60 *not the eligible entity realized the rate of return guaranteed herein on its principal investment in the*
61 *eligible venture capital fund. If the certification indicates that the guaranteed rate of return was not*
62 *realized by the eligible entity, the General Assembly shall appropriate such funds as are necessary such*
63 *that the actual moneys realized on such principal investment by the eligible entity, whether positive or*
64 *negative, plus such appropriation by the General Assembly, shall equal the guaranteed average rate of*
65 *return provided herein. All appropriations by the General Assembly to meet its financial guarantees to*
66 *an eligible entity shall be made by the end of the second fiscal year of the Commonwealth immediately*
67 *following the fiscal year of the certification.*
68 *D. The Authority shall publish and maintain guidelines implementing the provisions of this section.*