

Department of Planning and Budget 2009 Fiscal Impact Statement

1. Bill Number: HB2643

House of Origin ☐ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☒ Enrolled

2. Patron: Merricks

3. Committee: Passed Both Houses

4. Title: **Economic development; extension of performance agreements.**

5. Summary: Authorizes state and local economic development entities and localities, upon the agreement of the parties, to extend the performance period for any performance agreement. The bill defines a performance agreement as any agreement, contract, or memorandum of understanding that imposes an obligation for minimum private investment or the creation of new jobs in exchange for grants or other funds, or loans of money from the Department of Business Assistance (DBA), Virginia Economic Development Partnership (VEDP), Virginia Tourism Authority, Tobacco Indemnification and Community Revitalization Commission (TICR), the Virginia University Research Partnership established under § 2.2-2240.1, Code of Virginia, local or regional industrial or economic development authorities created in accordance with law, or localities. The bill includes an enactment clause to clarify that nothing in the bill shall be construed or interpreted to authorize or allow for any payment or appropriation of funds except as provided in the general appropriation act.

6. Fiscal impact estimates are indeterminate. See item 8, below.

7. Budget Amendment Necessary: No.

8. Fiscal Implications: Any fiscal impact the bill may have is indeterminate.

VEDP negotiates and executes the majority of the Commonwealth's economic development performance agreements that involve financial commitments at the state level of government and capital investment and job creation commitments by a company. Many of these performance agreements include funding from multiple programs, including the Virginia Jobs Investment Program (VJIP) administered by DBA, the Enterprise Zone Grant Program administered by the Department of Housing and Community Development, and the Governor's Development Opportunity Fund (GOF), Virginia Investment Partnership, Major Eligible Employer, and Virginia Economic Development Incentive grant programs administered by VEDP. All of these programs are provided for in statute.

In addition to these discretionary programs, VEDP also administers the Semiconductor Manufacturer Performance Agreements (Micron and Qimonda), Research Institute Performance Agreements (SRI), and Aerospace Engine Manufacturing Performance Agreements (Rolls-Royce). Each of these programs is provided for in statute. Tourism

administers the Motion Picture Opportunity Fund (MPOF), also provided for in statute. TICR manages several administratively established grant programs.

Through the GOF, VEDP provides a grant or loan to a political subdivision; the funds may be subsequently distributed by the political subdivision to a business beneficiary or used by the political subdivision for the benefit of the business beneficiary. The Code currently allows for a 15-month extension of benefits provided from the GOF. The Code provisions governing the other programs do not include specific language providing for an extension of the terms of an agreement. However, the enabling legislation for VEDP, Tourism, and TICR all include similar language authorizing each to make and execute contracts and agreements necessary to the performance of its duties and the exercise of its powers and functions. The agencies have interpreted this language to allow for the extension of an agreement, if deemed necessary and agreed to by the parties.

DBA's enabling legislation does not contain such language.

9. Specific Agency or Political Subdivisions Affected: Department of Business Assistance, Virginia Economic Development Partnership, Virginia Tourism Authority, Tobacco Indemnification and Community Revitalization Commission, local or regional industrial or economic development authorities, localities.

10. Technical Amendment Necessary: No.

11. Other Comments: The enabling legislation for TICR, VEDP, and Tourism includes the authority to make and enter into contracts and agreements necessary for the performance of the mission of each organization. This has been interpreted by these organizations to include the extension of such contracts and agreements.

Date: 3/12/2009 tmw

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cc: Secretary of Commerce and Trade