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HOUSE BILL NO. 767

Offered January 11, 2012

Prefiled January 11, 2012

A BILL to amend and reenact § 2.2-904.2 of the Code of Virginia, relating to the Virginia Department of Business Assistance; Small Business Jobs Grant Fund.

Patrons—Landes, Morris, Bell, Richard P., Byron, Crockett-Stark, Garrett, Helsel, Hodges, Merricks, O'Bannon, Ramadan and Rust

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That § 2.2-904.2 of the Code of Virginia is amended and reenacted as follows:**

§ 2.2-904.2. Creation, administration, and management of the Small Business Jobs Grant Fund.

A. For the purposes of this section:

"Base year" means the calendar year immediately preceding the 24-month period in which a small business creates new full-time positions making it eligible for grants under this section.

"New full-time position" means employment of a resident of the Commonwealth for an indefinite duration in the Commonwealth at a small business, for which the average annual wage is at least equal to the prevailing average annual wage in the county or city in which the position is located, requiring (i) a minimum of 35 hours of an employee's time per week for the entire normal year of the small business' operation, which "normal year" must consist of at least 48 weeks, or (ii) a minimum of 1,680 hours per year. Seasonal, temporary, or contract positions or positions created when a job function is shifted from an existing location in the Commonwealth shall not qualify as a new full-time position.

"Prevailing average annual wage" means that amount determined by the Virginia Employment Commission to be the average annual wage paid workers in the county or city. The prevailing average annual wage shall be determined without regard to any fringe benefits.

"Small business" means an independently owned and operated business that, (i) has been organized pursuant to Virginia law or maintains a principal place of business in Virginia, and (ii) together with affiliates, has 250 or fewer employees in its base year.

B. There is hereby created in the state treasury a permanent nonreverting fund to be known as the Small Business Jobs Grant Fund (the Fund). The Fund shall be comprised of (i) transfers from the Virginia Jobs Investment Program funded in Item 98 of the 2010-2012 Appropriation Act and (ii) any other moneys designated for deposit to the Fund from any source, public or private. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. The Fund shall be managed and administered as a part of the Virginia Jobs Investment Program established within the Department.

C. Moneys in the Fund shall be used solely for the purpose of providing grants to small businesses that create at least five new full-time positions within any 12-month period. A small business meeting the conditions of this section shall be eligible to receive a grant from the Fund ranging from \$500 to \$2,000 per each new full-time position that has been created based on criteria established by the Department pursuant to subsection E. However, in no case shall a small business be eligible for grants for more than 50 new full-time positions created within the 12-month period.

In awarding grants, priority shall be given to small businesses creating new full-time positions in areas with an annual average unemployment rate of more than 125 percent of the statewide average unemployment rate.

D. Grant payments under this section shall be conditional upon the small business substantially retaining (i) the number of full-time positions in its base year plus (ii) the number of new full-time positions for which grants are to be paid. In no case shall the retention period (as determined by the Department) for any new full-time position for which a grant is to be paid be less than 12 months.

No grant shall be awarded or paid for any new full-time position created prior to July 1, 2010. No grant shall be awarded or paid for any new full-time position created solely as a result of a merger, acquisition, similar business combination, or a change in business form.

E. The Department shall establish criteria for determining the amount of the grant to be awarded for each eligible new job created by a small business and to be based on the level of education, training, and experience required for the job. Such criteria shall also be based on the level of education, training, and experience required for the job (i) prohibit a small business from receiving more than one grant for the same position, (ii) require the employee to be employed in the new full-time position for at least 90

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58 *days prior to the award of the grant, and (iii) require the small business to submit a taxpayer*
59 *identification number and certification Form W-9 with the grant application.*

60 F. The Department shall determine the qualifications, terms, and conditions for the use of the Fund
61 and the accounts thereof. In connection with applications for claims made against the Fund, the
62 Department may require the production of any document, instrument, certificate, legal opinion, or any
63 other information it deems necessary or convenient. All claims made against the Fund shall be approved
64 by the Department.