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SENATE BILL NO. 620

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on February 8, 2012)

(Patron Prior to Substitute—Senator Petersen)

A BILL to amend the Code of Virginia by adding in Chapter 9 of Title 2.2 sections numbered 2.2-904.3 and 2.2-904.4, relating to a grant program for federal government contractors entering into subcontracts with minority-owned, veteran-owned, women-owned, or qualifying small businesses.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 9 of Title 2.2 sections numbered 2.2-904.3 and 2.2-904.4 as follows:

§ 2.2-904.3. Federal Government Contractor Grant Fund.

From such funds as may be appropriated by the General Assembly and any gifts, grants, or donations from public or private sources, there is hereby created in the state treasury a special nonreverting, permanent fund to be known as the Federal Government Contractor Grant Fund (the Fund), to be administered by the Department of Business Assistance. The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund at the end of each fiscal year, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund, which shall be in the form of grants, shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director. Moneys in the Fund shall be used solely for grants to eligible applicants to the Federal Government Contractor Grant Program pursuant to § 2.2-904.4.

§ 2.2-904.4. Federal Government Contractor Grant Program.

A. As used in this section, unless the context requires a different meaning:

"Fund" means the Federal Government Contractor Grant Fund established pursuant to § 2.2-904.3.

"Grant" means a grant issued pursuant to the Federal Government Contractor Grant Program.

"Large business" means a federal government contractor that has more than 250 full-time employees and is subject to the tax imposed by Article 10 (§ 58.1-400 et seq.) of Chapter 3 of Title 58.1.

"Minority-owned business" means a business concern that is at least 51 percent owned by African Americans, Hispanics, Asians, Pacific Islanders, or American Indians/Alaska Natives, the management and daily business operations of which are controlled by one or more African Americans, Hispanics, Asians, Pacific Islanders, or American Indians/Alaska Natives.

"Qualifying small business" means a business conducting all its obligations under a qualified subcontract in Virginia within (i) a Historically Underutilized Business Zone (HUBZone) as defined in 15 U.S.C. § 632(p) or (ii) a current enterprise zone designated pursuant to Chapter 22 (§ 59.1-279 et seq.) or 49 (§ 59.1-538 et seq.) of Title 59.1. That qualifying small business shall also be one of the following: (a) a Small Business Administration qualified small business that is HUBZone certified, (b) a women-owned business, (c) a minority-owned business, or (d) a veteran-owned business. Businesses qualifying under clause (b), (c), or (d) shall be no larger than the size standard determined by the Small Business Administration for a qualified small business having the same North American Industry Classification System.

"Veteran-owned business" means a business concern that is at least 51 percent owned by one or more veterans as defined under 38 U.S.C. § 101(2), the management and daily business operations of which are controlled by one or more veterans.

"Women-owned business" means a business concern that is at least 51 percent owned by one or more women, the management and daily business operations of which are controlled by one or more women.

B. Beginning January 1, 2013, a large business that enters into a subcontract with a qualifying small business for the qualifying small business to conduct, as a subcontractor of the large business, government contract obligations that are the subject of a contract between the large business and the federal government shall be eligible to apply for a grant from the Fund. Such subcontract shall not be an extension of or an addendum to a contract that existed between a qualifying small business and a large business prior to such date. Each subcontract shall be an arrangement for government contract obligations with compensation no less than \$250,000 for the life of the subcontract. The grant shall be equal to 5 percent of the compensation paid by the large business under the subcontract.

C. A large business shall apply to the Department for a grant. The Department shall verify the amount of the grant. Grants shall be issued in the order that each completed eligible application is received. In the event that the amount of eligible grants requested in a fiscal year exceeds the funds

60 *available in the Fund, such grants shall be paid in the next fiscal year in which funds are available.*

61 *D. Any large business receiving a grant under this section shall not claim a tax credit under any*
62 *similar Virginia law for costs related to the same project.*

63 *E. The Department of Business Assistance, with the assistance of the Virginia Economic Development*
64 *Partnership, shall develop guidelines establishing procedures and requirements for qualifying for the*
65 *grant. Notwithstanding the foregoing, the Department of Business Assistance shall permit an application*
66 *for certification as a qualified business to be filed at any time during a calendar year regardless of*
67 *when the business entered into the qualified subcontract. The guidelines shall be exempt from the*
68 *Administrative Process Act (§ 2.2-4000 et seq.).*

69 **2. That the provisions of this act shall not become effective unless an appropriation of general**
70 **funds effectuating the purposes of this act is included in a general appropriation act passed by the**
71 **2012 Session of the General Assembly, which becomes law.**