

# 2016 SESSION

HOUSE SUBSTITUTE

16105102D

## HOUSE BILL NO. 846

### AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations  
on February 3, 2016)

(Patron Prior to Substitute—Delegate Hugo)

A *BILL* to amend the Code of Virginia by adding in Title 2.2 a chapter numbered 51.1, consisting of sections numbered 2.2-5105 through 2.2-5108, relating to the Virginia Collaborative Economic Development Act.

**Be it enacted by the General Assembly of Virginia:**

1. That the Code of Virginia is amended by adding in Title 2.2 a chapter numbered 51.1, consisting of sections numbered 2.2-5105 through 2.2-5108, as follows:

#### CHAPTER 51.1.

#### VIRGINIA COLLABORATIVE ECONOMIC DEVELOPMENT ACT.

##### § 2.2-5105. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Average wage" means that amount determined by the Virginia Employment Commission to be the average wage paid to workers in a locality or region of the Commonwealth in the year prior to an application for grants from the Fund.

"Basic employment" means employment that brings new or additional income into Virginia and adds to the gross state product.

"Board" means a policy board in the executive branch of government that (i) was created by the 2016 Session of the General Assembly, (ii) has a legislatively stated purpose of promoting collaborative regional economic and workforce development opportunities and activities, and (iii) has membership consisting of members of the House of Delegates, members of the Senate, members of the Governor's cabinet, and nonlegislative citizen appointees.

"Capital investment" means an investment in real property, personal property, or both, by an eligible company within the Commonwealth. Expenditures for the maintenance, replacement, or repair of existing machinery, tools, and real property shall not constitute a capital investment; however, expenditures for the replacement of property shall not be ineligible for designation as a capital investment if such replacement results in a measurable increase in productivity.

"Certified company" means a Virginia employer that has been certified by the Partnership to have (i) created or caused to be created at least 200 new jobs in the Commonwealth with average salaries at least 25 percent greater than the average wage and (ii) made a capital investment of at least \$25 million in the Commonwealth.

"Collaborative economic development plan" means an agreement among two or more localities that identifies commitments made by each locality to implement a collaborative approach to economic development, whether the collaboration relates to general economic development and diversification efforts by the participating localities or relates to specific economic development needs, including infrastructure and workforce training, of a company. Such plan shall address the commitments made by the participating localities, including the sharing of costs and local tax revenues by the participating localities and timing thereof, and how, if awarded, moneys from the Fund will be distributed among the participating localities. If the plan relates to general economic development and diversification efforts, the plan shall be updated at the time of application for a grant from the Fund to indicate which company or companies, as a result of the efforts, have (i) created or caused to be created at least 200 new jobs in the Commonwealth with average salaries of at least 25 percent greater than the average wage and (ii) made a capital investment of at least \$25 million in the Commonwealth. Parties to the plan may include political subdivisions and bodies corporate and politic, in addition to the participating localities. Such plan shall be subject to approval by the Partnership.

"Fund" means the Virginia Collaborative Economic Development Performance Grant Fund created pursuant to § 2.2-5108.

"New job" means employment of an indefinite duration at the eligible facility, created as the direct result of the capital investment, for which the standard fringe benefits are paid by the firm for the employee, requiring a minimum of either (i) 35 hours of an employee's time a week for the entire normal year of the firm's operations, which "normal year" shall consist of at least 48 weeks, or (ii) 1,680 hours per year. Seasonal or temporary positions, positions created when a job function is shifted from an existing location in the Commonwealth to the facility, and positions with contractors, suppliers, and similar multiplier or spin-off jobs shall not qualify as new jobs under this chapter. Up to 100 full-time employees whose positions existed at a company prior to its certification as a certified company may be used to determine the number of new jobs created if the wages of the existing

HOUSE SUBSTITUTE

HB846HI

60 employees increase by more than 10 percent because of the new capital investment to be made by the  
61 company.

62 "Participating localities" means two or more localities that participate in a collaborative economic  
63 development plan.

64 "Partnership" means the Virginia Economic Development Partnership.

65 "Secretary" means the Secretary of Commerce and Trade.

66 **§ 2.2-5106. Virginia Collaborative Economic Development Performance Grants.**

67 A. Subject to the appropriation by the General Assembly of sufficient moneys to the Virginia  
68 Collaborative Economic Development Performance Grant Fund, participating localities may be eligible  
69 for grants as provided in this section, subject to the conditions set forth in this section and in the  
70 guidelines developed pursuant to subsection E. In order to be eligible to apply for a grant, the  
71 participating localities shall have contributed to a project or effort described in a collaborative  
72 economic development plan an amount at least equal to the aggregate amount of grants requested  
73 pursuant to this chapter, and the participating localities shall demonstrate that the projects or efforts  
74 undertaken pursuant to the collaborative economic development plan induced or resulted in the location  
75 or expansion of a certified company in the Commonwealth.

76 B. Grants approved pursuant to subsection D shall not be paid to the participating localities until  
77 the company related to the economic development project or effort has been certified by the Partnership  
78 for three consecutive years. After such three-year period, grants may be paid annually for up to six  
79 years so long as the certified company maintains the new jobs and capital investment, and the  
80 participating localities continue to implement any relevant provisions of the collaborative economic  
81 development plan.

82 C. After taking into consideration other state and local financial commitments made to the certified  
83 company, the annual amount of a grant from the Fund shall be not more than an amount equal to 50  
84 percent of the total annual amount of personal income tax withheld for payment to the Virginia  
85 Department of Taxation from employees holding new jobs at the applicable certified company. By  
86 March 31 of each year, the Partnership and the Virginia Department of Taxation shall determine  
87 whether a certified company has met or maintained the new job and capital investment requirements  
88 and shall compute, based on the amount of personal income tax withheld from employees holding new  
89 jobs, the moneys available to be disbursed as performance grants to the participating localities. If an  
90 application for a grant is approved pursuant to subsection D, the aggregate amount of grants awarded  
91 for that application over a six-year period shall not exceed the total investment or contributions of the  
92 participating localities to the economic development project or effort. Approved grants shall be  
93 disbursed annually to the participating localities in accordance with the terms of the collaborative  
94 economic development plan.

95 D. 1. If the Board exists, the Partnership shall forward to the Board the economic development  
96 project or effort for which it approved a collaborative economic development plan and certified a  
97 company. The Board shall review such economic development project or effort, following the criteria  
98 included in the guidelines developed pursuant to subsection E, and vote whether to award a grant  
99 pursuant to this chapter. A decision to award a grant shall require an affirmative vote of (i) a majority  
100 of the members present and voting, (ii) a majority of the legislative members of the Board from the  
101 House of Delegates who are present and voting, (iii) a majority of the legislative members of the Board  
102 from the Senate who are present and voting, and (iv) a majority of the members of the Board who are  
103 gubernatorial Secretaries who are present and voting. The Board shall determine the aggregate amount  
104 of the grant to be awarded for each approved economic development project or effort, subject to the  
105 provisions of subsection C.

106 2. If the Board does not exist, the Partnership shall determine, subject to the provisions of subsection  
107 C, the aggregate amount of the grant to be awarded for an economic development project or effort for  
108 which it approved a collaborative economic development plan and certified a company. The Partnership  
109 shall notify the chairmen of the House Committee on Appropriations and the Senate Committee on  
110 Finance of the award of a grant pursuant to this subdivision.

111 E. The Board shall develop guidelines implementing the provisions of this chapter. If the Board does  
112 not exist, the Partnership shall assist the Secretary in developing guidelines implementing the provisions  
113 of this chapter, including provisions relating to the application for and the awarding of grants to  
114 participating localities. No grant shall be awarded until the Board or the Secretary, as appropriate,  
115 provides copies of such guidelines for review to the Chairmen of the House Committee on  
116 Appropriations and the Senate Committee on Finance. The preparation of the guidelines shall be exempt  
117 from the requirements of the Administrative Process Act (§ 2.2-4000 et seq.).

118 **§ 2.2-5107. Grant payments.**

119 The Comptroller shall not draw any warrants to issue checks for grants or disburse funds under this  
120 chapter without a specific legislative appropriation as specified in conditions and restrictions on  
121 expenditures in the appropriation act and following receipt of a certification from the Partnership and

122 *the Virginia Department of Taxation of the amount of personal income taxes paid by the eligible  
123 company on account of the new jobs.*

124 **§ 2.2-5108. Virginia Collaborative Economic Development Performance Grant Fund.**

125 *There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia  
126 Collaborative Economic Development Performance Grant Fund. The Fund shall be established on the  
127 books of the Comptroller and administered by the Board. If the Board does not exist, the Fund shall be  
128 administered by the Partnership. All funds appropriated for such purpose shall be paid into the state  
129 treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and  
130 be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each  
131 fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall  
132 be used solely for the purposes of providing grants to participating localities and the Partnership  
133 pursuant to this chapter. Expenditures and disbursements from the Fund shall be made by the State  
134 Treasurer on warrants issued by the Comptroller upon written request signed by the President and Chief  
135 Executive Officer of the Partnership, or the chairman of the Board described herein, as appropriate.*

136 **2. That the provisions of this act shall expire on July 1, 2026. However, the expiration of this act  
137 shall not affect the validity of any grants awarded prior to July 1, 2026, and such grants shall  
138 continue to be paid in accordance with the provisions of this act as it was in effect when such  
139 grant was awarded and subject to the provisions of the award of the grant.**