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SENATE BILL NO. 459

Offered January 13, 2016

Prefiled January 12, 2016

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.

Patrons—Ruff, Saslaw, Alexander, Carrico, Dance, Dunnavant, Ebbin, McDougle, McEachin, Norment, Stanley and Sturtevant; Delegate: Toscano

Referred to Committee on Finance

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.

"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 employees increase by more than 10 percent because of the new capital investment to be made by the

58 company.

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

61 "Partnership" means the Virginia Economic Development Partnership.

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

63 **§ 2.2-5106. Virginia Collaborative Economic Development Performance Grants.**

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

73 B. Grants shall be paid to the participating localities in the year following certification by the
74 Partnership of a certified company. Grants may be paid annually for up to six years so long as the
75 certified company maintains the new jobs and capital investment, and the participating localities
76 continue to implement any relevant provisions of the collaborative economic development plan.

77 C. The annual amount of a grant from the Fund shall be not more than an amount equal to 50
78 percent of the total annual amount of personal income tax withheld for payment to the Virginia
79 Department of Taxation from employees holding new jobs at the applicable certified company. By
80 March 31 of each year, the Partnership and the Virginia Department of Taxation shall determine
81 whether a certified company has met or maintained the new job and capital investment requirements
82 and shall compute, based on the amount of personal income tax withheld from employees holding new
83 jobs, the moneys available to be disbursed as performance grants to the participating localities. If an
84 application for a grant is approved, the aggregate amount of grants awarded for that application over a
85 six-year period shall not exceed the total investment or contributions of the participating localities to the
86 economic development project or effort. The Partnership shall distribute the grant annually as follows:
87 (i) 85 percent of the grant shall be disbursed to the participating localities in accordance with the terms
88 of the collaborative economic development plan, and (ii) 15 percent of the grant shall be retained by the
89 Partnership to be used to enhance regional and statewide economic development marketing and
90 promotional activities.

91 D. The Partnership shall assist the Secretary in developing guidelines implementing the provisions of
92 this chapter, including provisions relating to the application for and the awarding of grants to
93 participating localities. No grant shall be awarded until the Secretary has provided copies of such
94 guidelines for review to the Chairmen of the House Committee on Appropriations and the Senate
95 Committee on Finance. The preparation of the guidelines shall be exempt from the requirements of the
96 Administrative Process Act (§ 2.2-4000 et seq.).

97 **§ 2.2-5107. Grant payments.**

98 The Comptroller shall not draw any warrants to issue checks for grants or distribute funds to the
99 Partnership under this chapter without a specific legislative appropriation as specified in conditions and
100 restrictions on expenditures in the appropriation act and following receipt of a certification from the
101 Partnership and the Virginia Department of Taxation of the amount of personal income taxes paid by
102 the eligible company on account of the new jobs.

103 **§ 2.2-5108. Virginia Collaborative Economic Development Performance Grant Fund.**

104 There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia
105 Collaborative Economic Development Performance Grant Fund. The Fund shall be established on the
106 books of the Comptroller and administered by the Partnership. All funds appropriated for such purpose
107 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund
108 shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest
109 thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.
110 Moneys in the Fund shall be used solely for the purposes of providing grants to participating localities
111 and the Partnership pursuant to this chapter. Expenditures and disbursements from the Fund shall be
112 made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the
113 President and Chief Executive Officer of the Partnership.