

VIRGINIA ACTS OF ASSEMBLY -- 2002 RECONVENED SESSION

CHAPTER 877

An Act to amend and reenact §§ 2.2-2440, 2.2-2442 through 2.2-2447, and 58.1-609.1 of the Code of Virginia and to amend and reenact the fourth enactment of Chapter 790 of the Acts of Assembly of 1998, relating to renaming the Advanced Shipbuilding and Carrier Integration Center.

[H 910]

Approved April 17, 2002

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2440, 2.2-2442 through 2.2-2447, and 58.1-609.1 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-2440. (Effective October 1, 2001 until June 30, 2004) Definitions.

As used in this article:

"Affiliate" of a specific company means a company that is directly or indirectly controlled by, or is under common control with, the company specified.

"Decision by the United States government" means a law, regulation, or administrative action, including but not limited to the issuance of a United States Navy or joint requirements document or a Defense Acquisition Board decision.

"Fiscal year" means the twelve-month period beginning July 1 and ending June 30.

"*Herbert H. Bateman* Advanced Shipbuilding and Carrier Integration Center" means a shipbuilding facility which, pursuant to a Memorandum of Agreement with the Secretary, is to be initially owned by a local industrial development authority in Virginia and built and operated by a Qualified Shipbuilder for use by the shipbuilding industry, primarily (i) to perform testing and integration projects, including research and development in conjunction with Virginia universities concerning those projects, and other projects relating to the design and integration of navigation, communication, weapon, and other ship systems for aircraft carriers and (ii) to provide education, training, and retraining of workers in the shipbuilding industry.

"Next aircraft carrier" means the aircraft carrier following the already authorized aircraft carrier designated CVN-77, such next carrier currently being designated by the United States Navy as CV(X).

"Qualified investment" means any expenditure capitalized or to be capitalized for federal income tax purposes that is related to the construction, expansion, improvement or modernization of a shipbuilding facility in Virginia. Except for salaries that are capitalized as part of the cost of a shipbuilding facility, "qualified investment" shall not include the salaries or other compensation paid to employees of a Qualified Shipbuilder or its affiliates.

"Qualified Shipbuilder" means a corporation that (i) is primarily engaged in designing, constructing, overhauling, modernizing, and repairing ships at its facilities in Virginia; (ii) employs more than 10,000 persons at its shipbuilding facilities in Virginia; and (iii) makes a qualified investment of at least \$25 million in the fiscal year preceding each fiscal year in which any grant provided by this act is awarded.

"Secretary" means the Secretary of Commerce and Trade or his designee.

"Shipbuilding facility" means any property, including land, buildings and other improvements to real estate, tangible personal property, machinery and tools, ships, boats and parts thereof, docks and dry docks, employed or designed to be employed in the shipbuilding industry.

"Shipbuilding industry" includes (i) businesses engaged in either designing, building, overhauling, modernizing and repairing ships in Virginia and (ii) other persons engaged in research, design, manufacturing or other activities in Virginia that are directly related to, or that provide necessary support for, such businesses.

§ 2.2-2442. (Effective October 1, 2001 until June 30, 2004) The *Herbert H. Bateman* Virginia Advanced Shipbuilding and Carrier Integration Center Board; membership.

The *Herbert H. Bateman* Virginia Advanced Shipbuilding and Carrier Integration Center Board (the "Board") is established in the executive branch of state government and shall consist of and perform the same duties as the members of the Board of Directors described in § 2.2-2445.

§ 2.2-2443. (Effective October 1, 2001 until June 30, 2004) Investment grants.

A. A local industrial development authority shall be entitled to the investment grant provided for in this section for use by a Qualified Shipbuilder to build the *Herbert H. Bateman* Advanced Shipbuilding and Carrier Integration Center if the Secretary determines that:

1. The United States government has either (i) made a decision that the United States Navy's next aircraft carrier will be nuclear powered or (ii) awarded a prime contract to a Qualified Shipbuilder to design or design and construct the United States Navy's next aircraft carrier; and

2. A Qualified Shipbuilder has agreed to build the *Herbert H. Bateman* Advanced Shipbuilding and Carrier Integration Center for the local industrial development authority.

B. The investment grant provided for by this section shall be subject to the following limitations:

1. The grant shall be awarded after July 1, 1998, and before July 1, 2001.
2. The total amounts granted under this section shall not exceed:
 - a. \$8 million from July 1, 1998, through June 30, 1999;
 - b. \$30 million from July 1, 1999, through June 30, 2000; and
 - c. \$20 million from July 1, 2000, through June 30, 2001.

Investment grants provided for by this section shall not exceed \$58 million in the aggregate.

3. The structure of the investment grant provided for by this section shall be negotiated and set forth in a Memorandum of Agreement. After the Secretary makes the determination required by subsection A of this section and has entered into a Memorandum of Agreement with a Qualified Shipbuilder, the investment grant shall be made to the local industrial development authority where the Qualified Shipbuilder is located. The Memorandum of Agreement shall set forth, inter alia, the performance standards for transfer of the *Herbert H. Bateman* Advanced Shipbuilding and Carrier Integration Center to the Qualified Shipbuilder. Title to the *Herbert H. Bateman* Advanced Shipbuilding and Carrier Integration Center shall be held by the local industrial development authority and shall be transferred to the Qualified Shipbuilder if it meets the performance standards set forth in the Memorandum of Agreement. A copy of such agreement shall be provided prior to its execution to the chairmen of the House Appropriations Committee and the Senate Finance Committee for review.

§ 2.2-2444. (Effective October 1, 2001 until June 30, 2004) Operation grants.

A. The operations grant provided for by this section shall be appropriated to the Virginia Economic Development Partnership for use by the *Herbert H. Bateman* Advanced Shipbuilding and Carrier Integration Center if the Secretary determines that:

1. The investment grant provided for in § 2.2-2443 has been awarded;
2. The United States government has awarded a prime contract to a Qualified Shipbuilder to design or to design and construct the United States Navy's next aircraft carrier;
3. The Qualified Shipbuilder has undertaken construction and has agreed to operate the *Herbert H. Bateman* Advanced Shipbuilding and Carrier Integration Center consistent with the Memorandum of Agreement with the Secretary; and

4. To the extent practicable and consistent with the security requirements of the United States government and the protection of the Qualified Shipbuilder's proprietary information, the Memorandum of Agreement between the Qualified Shipbuilder and the Secretary provides for the establishment of procedures to:

- a. Include members of the faculties and staffs of those public institutions of higher education in Virginia that provide engineering and other courses of study relevant to the shipbuilding industry, in the activities of the *Herbert H. Bateman* Advanced Shipbuilding and Carrier Integration Center, including research and development, education and training;
- b. Allow other members of the shipbuilding industry access to, and participation in, the activities of the *Herbert H. Bateman* Advanced Shipbuilding and Carrier Integration Center, including its ship systems integration activities; and
- c. Ensure that the training, retraining and education services provided by the *Herbert H. Bateman* Advanced Shipbuilding and Carrier Integration Center are not limited to employees of the Qualified Shipbuilder, but also are available to other members of the shipbuilding industry.

B. The operations grant authorized by this section shall be subject to the following limitations:

1. The operations grant shall be awarded after July 1, 1998, and before July 1, ~~2004~~ 2006; and
2. The total operations grants awarded shall not exceed \$20 million during any fiscal year and shall not exceed \$40 million in the aggregate.
3. All such grants received shall be used to establish or operate activities of the *Herbert H. Bateman* Advanced Shipbuilding and Carrier Integration Center.

§ 2.2-2445. (Effective October 1, 2001 until June 30, 2004) Administration of grant program; exemption from Freedom of Information Act.

The Virginia Economic Development Partnership shall be authorized to create a nonstock nonprofit corporation to receive the grant funds and oversee the administration of the grant program provided for by § 2.2-2444. The Board of Directors of the corporation shall be appointed by the Governor and shall consist of nine members as follows: (i) the Secretary of Commerce and Trade; (ii) the Secretary of Finance; (iii) one member representing the shipbuilding industry; (iv) one member representing industries that supply critical systems components to aircraft carriers; (v) two representatives of Virginia's institutions of higher education; (vi) two representatives to be designated by the Qualified Shipbuilder; and (vii) one citizen member who shall have had substantial U.S. Navy experience aboard an aircraft carrier. The Board of Directors will oversee the utilization of state funding for training and research and development and monitor the general implementation of the Memorandum of Agreement as it relates to operations grant funding until all such funds have been expended, at which time such corporation shall cease to exist. The records, meetings and activities of the corporation, its Board members, and employees that are deemed confidential, proprietary, or are classified by the federal government shall be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700

et seq.). The members of the Board of Directors shall also serve as the members of the *Herbert H. Bateman* Virginia Advanced Shipbuilding and Carrier Integration Center Board.

§ 2.2-2446. (Effective October 1, 2001 until June 30, 2004) Memorandum of agreement.

The memorandum of agreement shall specify the following:

1. Circumstances for transfer of title to the *Herbert H. Bateman* Advanced Shipbuilding and Carrier Integration Center to the Qualified Shipbuilder upon completion of construction and fulfillment of performance standards.

2. Operation of the Carrier Integration Center prior to transfer of title to the Qualified Shipbuilder and until all grants hereunder have been expended.

3. The means by which participation of the shipbuilding industry in the activities of the *Herbert H. Bateman* Advanced Shipbuilding and Carrier Integration Center shall be accomplished.

4. The means by which participation of Virginia universities in the activities of the *Herbert H. Bateman* Advanced Shipbuilding and Carrier Integration Center shall be accomplished.

5. Disbursement and use of the operations grant monies provided in § 2.2-2444.

§ 2.2-2447. (Effective October 1, 2001 until June 30, 2004) Annual statement.

A Qualified Shipbuilder building and operating the *Herbert H. Bateman* Advanced Shipbuilding and Carrier Integration Center shall submit annually to the Secretary a statement, approved by an independent certified public accountant licensed by the Commonwealth, confirming that the Qualified Shipbuilder: (i) has made a Qualified investment in the amount required by this act and (ii) employs more than 10,000 persons in Virginia. The statement shall be in the form specified by the Secretary and shall be subject to audit and verification by the Secretary.

§ 58.1-609.1. Governmental and commodities exemptions.

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Fuels which are subject to the tax imposed by Chapter 22 (§ 58.1-2200 et seq.) of this title. Persons who are refunded any such fuel tax shall, however, be subject to the tax imposed by this chapter, unless such taxes would be specifically exempted pursuant to any provision of this section.

2. Motor vehicles, trailers, semitrailers, mobile homes and travel trailers.

3. Gas, electricity, or water when delivered to consumers through mains, lines, or pipes.

4. Tangible personal property for use or consumption by the Commonwealth, any political subdivision of the Commonwealth, or the United States. This exclusion shall not apply to sales and leases to privately owned financial and other privately owned corporations chartered by the United States. Further, this exemption shall not apply to tangible personal property which is acquired by the Commonwealth or any of its political subdivisions and then transferred to private businesses for their use in a facility or real property improvement to be used by a private entity or for nongovernmental purposes other than tangible personal property acquired by the *Herbert H. Bateman* Advanced Shipbuilding and Carrier Integration Center and transferred to a Qualified Shipbuilder as defined in the third enactment of Chapter 790 of the 1998 Acts of the General Assembly.

5. Aircraft subject to tax under Chapter 15 (§ 58.1-1500 et seq.) of this title.

6. Motor fuels and alternative fuels for use in a commercial watercraft upon which a fuel tax is refunded pursuant to § 58.1-2259.

7. Sales by a government agency of the official flags of the United States, the Commonwealth of Virginia, or of any county, city or town.

8. Materials furnished by the State Board of Elections pursuant to §§ 24.2-404 through 24.2-407.

9. Watercraft as defined in § 58.1-1401.

10. Tangible personal property used in and about a marine terminal under the supervision of the Virginia Port Authority for handling cargo, merchandise, freight and equipment. This exemption shall apply to agents, lessees, sublessees or users of tangible personal property owned by or leased to the Virginia Port Authority and to property acquired or used by the Authority or by a nonstock, nonprofit corporation that operates a marine terminal or terminals on behalf of the Authority.

11. Sales by prisoners confined in state correctional facilities of artistic products personally made by the prisoners as authorized by § 53.1-46.

12. Tangible personal property for use or consumption by the Virginia Department for the Blind and Vision Impaired or any nominee, as defined in § 63.1-142, of such Department.

13. [Expired.]

14. Tangible personal property sold to residents and patients of the Virginia Veterans Care Center at a canteen operated by the Virginia Veterans Care Center Board of Trustees established pursuant to § 2.2-2435.

15. Tangible personal property for use or consumption by any nonprofit organization whose members include the Commonwealth and other states and which is organized for the purpose of fostering interstate cooperation and excellence in government.

16. Tangible personal property purchased for use or consumption by any soil and conservation district which is organized in accordance with the provisions of Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1.

2. That the fourth enactment of Chapter 790 of the Acts of Assembly 1998 is amended and reenacted as follows:

4. That the provisions of this act relating to the Virginia Advanced Shipbuilding and Carrier Integration Center program shall expire on June 30, ~~2004~~ *2006*.