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**HOUSE BILL NO. 2444**

Offered January 14, 2009

Prefiled January 14, 2009

*A BILL to amend and reenact §§ 2.2-2233.1, 2.2-2238, 2.2-2515, and 2.2-2516 of the Code of Virginia, relating to the development of the biosciences and other technology-related industries in the Commonwealth.*

Patrons—Sickles, O'Bannon, Albo, Amundson, Bouchard, Brink, Bulova, Caputo, Dance, Ebbin, Englin, Hall, Hugo, Hull, Landes, Lewis, Marsden, May, McClellan, Nixon, Peace, Plum, Rust, Scott, J.M., Shuler, Toscano, Valentine and Vanderhye

Referred to Committee on Science and Technology

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

**1. That §§ 2.2-2233.1, 2.2-2238, 2.2-2515, 2.2-2516 of the Code of Virginia are amended and reenacted as follows:**

§ 2.2-2233.1. Commonwealth Research Commercialization Fund; continued; purposes; report.

*A. For purposes of this section:*

*"Qualified research and technologies" means research programs or technologies substantially focused in the following fields: energy, conservation, environment, microelectronics, or lifespan biology and medicine.*

*"Qualifying institution" means a public or private institution of higher education in the Commonwealth or its associated intellectual property foundation that adopts a policy regarding the ownership, protection, assignment, and use of intellectual property pursuant to § 23-4.3.*

*"SBIR" means the Small Business Innovation Research Program authorized under 15 U.S.C. § 638.*

*"STTR" means the Small Business Technology Transfer Program authorized under 15 U.S.C. § 638.*

*A. B. From such funds as may be appropriated by the General Assembly and any gifts, grants, or donations from public or private sources, there is created in the state treasury a special nonreverting, permanent fund, to be known as the Commonwealth Technology Research Commercialization Fund (the Fund), to be administered by the Authority. 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 may consist of grants or loans, shall be made by the State Treasurer on warrants issued by the Comptroller upon written request bearing the signature of the chairman or the vice-chairman of the Authority, or, if so authorized by the Authority, bearing his facsimile signature, and the official seal of the Authority.*

*B. Moneys in the Fund shall be used for the sole purpose of attracting public and private research funding for institutions of higher education, in order to increase technological and economic development in Virginia. Awards from the Fund shall be made to Virginia public institutions of higher education or to their associated intellectual property foundations.*

*C. For purposes of awards, the Fund shall have four components: (i) a matching funds program to leverage federal and private research dollars; (ii) a strategic enhancement program to upgrade the research capacity of those academic departments that have demonstrated the ability to perform innovative research in technology fields that has strong potential to contribute to economic development in the Commonwealth; (iii) a program to upgrade research capacity in key departments of the institutions in order to attract specific companies to locate or expand in Virginia; and (iv) a program to enhance the capability of the institutions of higher education to commercialize technologies developed through their research.*

*Awards for the matching funds component shall be contingent upon the approval of the institution's grant proposal for federal or private funds.*

*Awards from the Fund shall be matched on at least a dollar-for-dollar basis by the respective institution of higher education, with private funds, or combinations thereof. However, for good cause, this requirement may be waived, in whole or in part, by the chairman of the Authority, provided that such action is reported to the Chairmen of the House Appropriations and Senate Finance Committees at least 10 days prior to the award or disbursement of such funds for such purpose.*

*D. Awards shall be based on scientific merit and economic development potential of research programs in the following fields: aerospace, biotechnology, energy, environmental and information technologies, high performance manufacturing, sensor sciences, telecommunications, and transportation.*

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HB2444

57 However, for good cause, awards supporting research in other relevant fields or disciplines may be made  
58 by the chairman of the Authority, provided that such action is reported to the Chairmen of the House  
59 Appropriations and Senate Finance Committees at least 10 days prior to the award or disbursement of  
60 such funds for such purpose.

61 Specific guidelines for the award of funds from this program shall be established and maintained by  
62 the Authority, in consultation with the Virginia Economic Development Partnership and the State  
63 Council of Higher Education. These guidelines shall address, at a minimum, the application process, and  
64 the composition and operation of proposal review panels, and give special emphasis to fostering  
65 collaboration between institutions of higher education and partnerships between institutions of higher  
66 education and business and industry.

67 The chairman of the Authority shall coordinate the evaluation of proposals, to be conducted by  
68 review panels with the appropriate science and technology expertise, drawn from federal agencies and  
69 academic and industrial research institutions across the country.

70 Recommendations on the grants shall be made by representatives from the Virginia Research and  
71 Technology Advisory Commission pursuant to § 2.2-2515, the Virginia Economic Development  
72 Partnership, and the State Council of Higher Education based on the recommendations of the review  
73 panels.

74 *C. Awards from the Fund shall be made by the Authority. The chairman of the Authority shall*  
75 *coordinate the evaluation of proposals and may form review panels with the appropriate science and*  
76 *technology expertise to assist in reviewing applicants for grants or loans from the Fund.*

77 *Specific guidelines for the award of funds from this program shall be established and maintained by*  
78 *the Authority, in consultation with the Virginia Economic Development Partnership and the State*  
79 *Council of Higher Education. These guidelines shall address, at a minimum, the application process, the*  
80 *composition and operation of proposal review panels, and give special emphasis to fostering*  
81 *collaboration between institutions of higher education and partnerships between institutions of higher*  
82 *education and business and industry.*

83 *D. Awards from the Fund may be granted for the following programs:*

84 *1. For fiscal years beginning with a Fund balance of less than \$7,000,000, an SBIR matching funds*  
85 *program for Virginia-based technology businesses. Businesses meeting the following criteria shall be*  
86 *eligible to apply for an award:*

87 *a. The applicant has received a Phase I SBIR award from the National Institute of Health targeted*  
88 *at the development of qualified research or technologies;*

89 *b. The applicant employs less than 12 full-time employees;*

90 *c. At least 51 percent of the applicant's employees reside in Virginia; and*

91 *d. At least 51 percent of the applicant's property is located in Virginia.*

92 *Applicants shall be eligible for matching grants of up to \$50,000 of the Phase I award. All*  
93 *applicants shall be required to submit a commercialization plan with their application.*

94 *2. For fiscal years beginning with a Fund balance of \$7,000,000 or greater, an SBIR and STTR*  
95 *matching funds program for Virginia-based technology businesses. Businesses meeting the following*  
96 *criteria shall be eligible to apply for an award:*

97 *a. The applicant has received an SBIR or STTR award targeted at the development of qualified*  
98 *research or technologies;*

99 *b. The applicant employs less than 12 full-time employees;*

100 *c. At least 51 percent of the applicant's employees reside in Virginia; and*

101 *d. At least 51 percent of the applicant's property is located in Virginia.*

102 *Applicants shall be eligible for matching grants of up to \$100,000 for Phase I awards and up to*  
103 *\$500,000 for Phase II awards. All applicants shall be required to submit a commercialization plan with*  
104 *their application.*

105 *3. A matching funds program to assist qualifying institutions in leveraging federal and private funds*  
106 *designated for the commercialization of qualified research or technologies. The chairman of the*  
107 *Authority is authorized to issue letters of financial commitment to assist applicants in leveraging federal*  
108 *and private funds.*

109 *4. A facilities enhancement loan program for qualifying institutions and political subdivisions of the*  
110 *Commonwealth to provide lease or credit guarantees to assist in financing facilities utilized for*  
111 *commercializing qualified research or technologies developed at qualifying institutions. The facilities*  
112 *enhancement loan program shall have the following parameters:*

113 *a. Qualifying institutions and political subdivisions of the Commonwealth may apply to the Fund for*  
114 *loans to the extent that such institution's or political subdivision's outstanding principal balance at any*  
115 *one time does not exceed \$500,000. Loan applications shall include business plans that detail and*  
116 *explain the anticipated uses of funds received and the proposed repayment schedule.*

117 *b. Loans from the Fund shall take the form of a contractual commitment to the recipient qualifying*  
118 *institution or political subdivision for a line of credit for up to five years, along with an approved*

*schedule of repayment. During the contractual period the recipient qualifying institution or political subdivision may draw upon the line of credit for any expense for which the loan was made, not to exceed the stated amount of the loan award. At the end of the contractual period, the line of credit shall terminate and the outstanding balance of the withdrawals on that line of credit shall become the established basis for that loan.*

*c. During the contractual period, deferred interest shall accumulate on the outstanding balance at a rate of three percent compounded annually. Borrowing institutions or political subdivisions may prepay part or all of any loan received from the Fund without penalty, and, if repayment is completed within the contractual period of the line of credit, the accumulated interest obligation shall be forgiven.*

*d. Repayment of the established basis shall consist of a maximum of 84 equal monthly payments of principal and compounded interest at the determined rate beginning on the first day of the month following the end of the contractual period.*

E. The chairman of the Authority shall provide the Governor and the General Assembly with an annual report to include a detailed list of awards and loans committed, the amount of each approved award or loan, a description of the approved proposals, and the amount of federal or private matching funds anticipated where applicable, and an assessment of the effectiveness of the Fund. ~~in attracting public and private research funding and increasing technological and economic development in Virginia.~~

§ 2.2-2238. Economic development services.

A. It shall be the duty of the Authority to encourage, stimulate, and support the development and expansion of the economy of the Commonwealth. The Authority is charged with the following duties and responsibilities to:

1. See that there are prepared and carried out effective economic development marketing and promotional programs;

2. Make available, in conjunction and cooperation with localities, chambers of commerce, industrial authorities, and other public and private groups, to prospective new businesses basic information and pertinent factors of interest and concern to such businesses;

3. Formulate, promulgate, and advance programs throughout the Commonwealth for encouraging the location of new businesses in the Commonwealth and the retention and growth of existing businesses;

4. Encourage and solicit private sector involvement, support, and funding for economic development in the Commonwealth;

5. Encourage the coordination of the economic development efforts of public institutions, regions, communities, and private industry and collect and maintain data on the development and utilization of economic development capabilities;

6. Establish such offices within and without the Commonwealth that are necessary to the expansion and development of industries and trade;

7. Encourage the export of products and services from the Commonwealth to international markets; and

8. Advise, upon request, the State Board for Community Colleges in designating technical training programs in Virginia's comprehensive community colleges for the Community College Incentive Scholarship Program pursuant to § 23-220.4; and

*9. Undertake initiatives in the Commonwealth to encourage the development of research and industry in fields related to the biosciences, including marketing, promoting, and publicizing biosciences-related research advances and business developments in the Commonwealth. Such initiatives and marketing may include the use of press releases or use of the Authority's website to promote biosciences in the Commonwealth.*

B. The Authority shall prepare a specific plan annually that shall serve as the basis for marketing high unemployment areas of Virginia. This plan shall be submitted to the Governor and General Assembly annually on or before November 1 of each year. The report shall contain the plan and activities conducted by the Authority to market these high unemployment areas. The annual report shall be part of the report required by § 2.2-2242.

§ 2.2-2515. Powers and duties of the Commission.

The Commission shall:

1. Undertake studies and gather information and data in order to accomplish its purposes as set forth in § 2.2-2513, and to formulate and present its recommendations to the Governor and the General Assembly;

2. Make recommendations upon all proposals submitted to the Grant Allocation Committee, as described in paragraph 4 of subsection D of § 2.2-2233.1, for grant allocations to be disbursed from the Commonwealth Technology Research Fund created by § 2.2-2233.1;

32. Apply for, accept, and expend gifts, grants, or donations from public, quasi-public or private sources and state funds that may be appropriated by the General Assembly to carry out its purpose; and

43. Report annually its findings and recommendations to the Governor. The Commission may make

**180** interim reports to the Governor as it deems advisable.

**181** § 2.2-2516. Funding for Commission's activities.

**182** Funding necessary to support the Commission's work, including but not limited to the compensation  
**183** and reimbursement pursuant to subsection E of § 2.2-2514, shall be provided by the Innovative  
**184** Technology Authority ~~and other sources pursuant to subdivision 2 of § 2.2-2515.~~