

Department of Planning and Budget 2009 Fiscal Impact Statement

1. Bill Number: HB2643

House of Origin	<u> X </u>	Introduced	<u> </u>	Substitute	<u> </u>	Engrossed
Second House	<u> </u>	In Committee	<u> </u>	Substitute	<u> </u>	Enrolled

2. Patron: Merricks

3. Committee: General Laws

4. Title: **Economic development; extension of performance agreements.**

5. Summary: Authorizes state and local economic development entities, upon the agreement of the parties, to extend for a period not to exceed two years any performance agreement. The bill defines a performance agreement as any agreement, contract, or memorandum of understanding that imposes an obligation for minimum private investment or the creation of new jobs in exchange for grants or other funds, or loans of money from the Department of Business Assistance (DBA), Virginia Economic Development Partnership (VEDP), Virginia Tourism Authority, Tobacco Indemnification and Community Revitalization Commission (TICR), the Virginia University Research Partnership established under § 2.2-2240.1, Code of Virginia, or local or regional industrial or economic development authorities created in accordance with law. The bill contains a sunset date of July 1, 2011.

6. Fiscal impact estimates are indeterminate. See item 8, below.

7. Budget Amendment Necessary: No.

8. Fiscal Implications: Any fiscal impact the bill may have is indeterminate.

VEDP negotiates and executes the majority of the Commonwealth's economic development performance agreements that involve financial commitments at the state level of government and capital investment and job creation commitments by a company. Many of these performance agreements include funding from multiple programs, including the Virginia Jobs Investment Program (VJIP) administered by DBA, the Enterprise Zone Grant Program administered by the Department of Housing and Community Development, and the Governor's Development Opportunity Fund (GOF), Virginia Investment Partnership, Major Eligible Employer, and Virginia Economic Development Incentive grant programs administered by VEDP. All of these programs are provided for in statute.

In addition to these discretionary programs, VEDP also administers the Semiconductor Manufacturer Performance Agreements (Micron and Qimonda), Research Institute Performance Agreements (SRI), and Aerospace Engine Manufacturing Performance Agreements (Rolls-Royce). Each of these programs is provided for in statute. Tourism administers the Motion Picture Opportunity Fund (MPOF), also provided for in statute. TICR manages several administratively established grant programs.

Through the GOF, VEDP provides a grant or loan to a political subdivision; the funds may be subsequently distributed by the political subdivision to a business beneficiary or used by the political subdivision for the benefit of the business beneficiary. The Code currently allows for a 15-month extension of benefits provided from the GOF. The Code provisions governing the other programs do not include specific language providing for an extension of the terms of an agreement. However, the enabling legislation for VEDP, Tourism, and TICR all include similar language authorizing each to make and execute contracts and agreements necessary to the performance of its duties and the exercise of its powers and functions. The agencies have interpreted this language to allow for the extension of an agreement, if deemed necessary and agreed to by the parties.

DBA's enabling legislation does not contain such language.

The proposed bill has a sunset date of July 1, 2011.

- 9. Specific Agency or Political Subdivisions Affected:** Department of Business Assistance, Virginia Economic Development Partnership, Virginia Tourism Authority, Tobacco Indemnification and Community Revitalization Commission, local or regional industrial or economic development authorities.
- 10. Technical Amendment Necessary:** Yes. Line 10, after "Partnership" insert "Authority".
- 11. Other Comments:** The enabling legislation for TICR, VEDP, and Tourism includes the authority to make and enter into contracts and agreements necessary for the performance of the mission of each organization. This has been interpreted to include the extension of such contracts and agreements. The sunset in the proposed legislation implies that the authorization to extend performance agreements terminates on the sunset date, and subsequently, may hinder the aforementioned agencies' abilities to modify performance agreements from that point forward.

Date: 2/3/2009 tmw

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cc: Secretary of Commerce and Trade