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HOUSE BILL NO. 943**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on Appropriations
on February 12, 2010)

(Patron Prior to Substitute—Delegate Landes)

A *BILL to amend and reenact § 2.2-902 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 9 of Title 2.2 a section numbered 2.2-904.2, relating to the creation, administration, and management of the Small Business Jobs Grant Fund; grants to small businesses for creating new full-time positions.*

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-902 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 9 of Title 2.2 a section numbered 2.2-904.2 as follows:

§ 2.2-902. Duties of the Department; state agencies to furnish information.

A. The Department shall serve as the liaison between the Commonwealth's existing business and state government in order to promote the development of Virginia's economy. To that end, the Department shall:

1. Provide for training or retraining of individuals for specific employment opportunities at new or expanding business facilities in the Commonwealth;

2. Develop and implement programs to assist small businesses in the Commonwealth in order to promote their growth and the creation and retention of jobs for Virginians;

3. Establish an industry program that is the principal point of communication between basic employers in the Commonwealth and the state government that will address issues of significance to business;

4. Make available to existing businesses, in conjunction and cooperation with localities, chambers of commerce, and other public and private groups, basic information and pertinent factors of interest and concern to such businesses; ~~and~~

5. Develop statistical reports on job creation and the general economic conditions in the Commonwealth; ~~and~~

6. *Manage the Small Business Jobs Grant Fund created pursuant to § 2.2-904.2.*

B. All agencies of the Commonwealth shall assist the Department upon request and furnish such information and assistance as the Department may require in the discharge of its duties.

§ 2.2-904.2. *Creation, administration, and management of the Small Business Jobs Grant Fund.*

A. *For the purposes of this section:*

"Base year" means the calendar year immediately preceding the 24-month period in which a small business creates new full-time positions making it eligible for grants under this section.

"New full-time position" means employment of an indefinite duration in the Commonwealth at a small business, for which the average annual wage is at least equal to the prevailing average annual wage in the county or city in which the position is located, requiring (i) a minimum of 35 hours of an employee's time per week for the entire normal year of the small business' operation, which "normal year" must consist of at least 48 weeks, or (ii) a minimum of 1,680 hours per year. Seasonal, temporary, or contract positions or positions created when a job function is shifted from an existing location in the Commonwealth shall not qualify as a new full-time position.

"Prevailing average annual wage" means that amount determined by the Virginia Employment Commission to be the average annual wage paid workers in the county or city. The prevailing average annual wage shall be determined without regard to any fringe benefits.

"Small business" means an independently owned and operated business that, together with affiliates, has 250 or fewer employees in its base year.

B. There is hereby created in the state treasury a permanent nonreverting fund to be known as the Small Business Jobs Grant Fund (the Fund). The Fund shall be comprised of (i) transfers from the Virginia Jobs Investment Program funded in Item 98 of the 2010-2012 Appropriations Act and (ii) any other moneys designated for deposit to the Fund from any source, public or private. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. The Fund shall be managed and administered as a part of the Virginia Jobs Investment Program established within the Department.

C. Moneys in the Fund shall be used solely for the purpose of providing grants to small businesses that create at least five new full-time positions within any 12-month period. A small business meeting the conditions of this section shall be eligible to receive a grant from the Fund ranging from \$500 to \$2,000 per each new full-time position that has been created based on criteria established by the

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60 Department pursuant to subsection E. However, in no case shall a small business be eligible for grants
61 for more than 50 new full-time positions created within the 12-month period.

62 In awarding grants, priority shall be given to small businesses creating new full-time positions in
63 areas with an annual average unemployment rate of more than 125 percent of the statewide average
64 unemployment rate.

65 D. Grant payments under this section shall be conditioned upon the small business substantially
66 retaining (i) the number of full-time positions in its base year plus (ii) the number of new full-time
67 positions for which grants are to be paid. In no case shall the retention period (as determined by the
68 Department) for any new full-time position for which a grant is to be paid be less than 12 months.

69 No grant shall be awarded or paid for any new full-time position created prior to July 1, 2010. No
70 grant shall be awarded or paid for any new full-time position created solely as a result of a merger,
71 acquisition, similar business combination, or a change in business form.

72 E. The Department shall establish criteria for determining the amount of the grant to be awarded for
73 each eligible new job created by a small business. Such criteria shall be based on the level of
74 education, training, and experience required for the job.

75 F. The Department shall determine the qualifications, terms, and conditions for the use of the Fund
76 and the accounts thereof. In connection with applications for claims made against the Fund, the
77 Department may require the production of any document, instrument, certificate, legal opinion, or any
78 other information it deems necessary or convenient. All claims made against the Fund shall be approved
79 by the Department.

80 2. That the Department of Business Assistance shall develop guidelines implementing the
81 provisions of this act. The guidelines shall be made publicly available no later than September 1,
82 2010. The development of the guidelines shall be exempt from the provisions of the Administrative
83 Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

84 3. That beginning with the Commonwealth's fiscal year starting on July 1, 2010, and for each
85 fiscal year thereafter, the Comptroller shall by September 1 of each year transfer up to \$2 million
86 from the Virginia Jobs Investment Program funded in Item 98 Item 470 of the 2010-2012
87 Appropriations Act to the Small Business Jobs Grant Fund established in accordance with
88 § 2.2-904.2 of this act, with such moneys transferred to be used for the purposes set forth in
89 § 2.2-904.2.