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**HOUSE BILL NO. 1842**

Offered January 14, 2015

Prefiled January 13, 2015

*A BILL to amend and reenact §§ 2.2-5101, 2.2-5102, and 2.2-5102.1 of the Code of Virginia, relating to the Virginia Investment Partnership Act; performance and incentive grants.*

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 Patron—James
 

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 Referred to Committee on Appropriations
 

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

**1. That §§ 2.2-5101, 2.2-5102, and 2.2-5102.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-5101. Virginia Investment Performance Grants.**

A. Subject to the appropriation by the General Assembly of sufficient moneys to the Investment Performance Grant subfund, any eligible manufacturer or research and development service that is not eligible for a major eligible employer grant under § 2.2-5102 shall be eligible for an investment performance grant as provided in this section.

B. The Partnership shall establish an application process by which eligible manufacturers and research and development services may apply for a grant under this section. An application for a grant under this section shall not be approved until the Partnership has verified that the capital investment has been completed.

C. The amount of the investment performance grant that an eligible manufacturer or research and development service shall be eligible to receive under this section shall be determined by the Secretary, based on the recommendation of the Partnership, and contingent upon approval by the Governor. The determination of the appropriate amount of an investment performance grant shall be based on the application of guidelines that establish criteria for correlating the amount of a grant to the relative value to the Commonwealth of the eligible investment.

D. The Partnership shall assist the Secretary in developing objective guidelines that shall be used in awarding investment performance grants. No grant shall be awarded until the Secretary has provided copies of such guidelines for review to the chairmen of the House Committee on Appropriations and the Senate Committee on Finance. The preparation of the guidelines shall be exempt from the requirements of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act (§ 2.2-4000 et seq.). The guidelines shall require determinations regarding the amount of investment performance grants to address:

1. The number of new jobs created by the capital investment;
2. The wages paid for the new jobs and the amount by which wages exceed the average manufacturing wage for the locality or region;
3. The extent to which the capital investment produces (i) measurable increases in capacity, productivity, or both; (ii) measurable decreases in the production of flawed product; or (iii) measurable advances in knowledge, research, or the application of research findings for the creation of new or significantly improved products or processes that support manufacturing;
4. The amount of the capital investment;
5. The net present value of benefits to Virginia;
6. The amount of other incentives offered by the Commonwealth and the locality; and
7. The importance of the manufacturing or research and development facility to the economy of the locality or region.

The guidelines shall also address the eligibility of manufacturers or research and development services that make a capital investment in phases over a period of years, and limits on eligibility for multiple grants by the same manufacturer or research and development service within stated periods of time.

E. The amount of an investment performance grant to any eligible manufacturer under this section shall not exceed \$3 million or 10 percent of the amount appropriated by the General Assembly to the Investment Performance Grant subfund in the year that the terms of a grant are determined. For all eligible projects awarded grants on or after July 1, 2005, and before July 1, 2009, the amount of an investment performance grant to any recipient under this section shall not exceed \$1.5 million. For eligible projects awarded grants on or after July 1, 2009, the amount of an investment performance grant to any recipient under this section shall not exceed \$3 million, except for eligible projects that demonstrate extraordinary characteristics described in guidelines implementing this chapter the amount of an investment performance grant to any such recipient under this section shall not exceed \$5 million.

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59 F. For all eligible projects awarded grants before July 1, 2005, the aggregate amount of investment  
60 performance grants approved under this section in any year shall not exceed \$6 million, and the  
61 aggregate amount of grants outstanding to all eligible manufacturers under this section for all years shall  
62 at no time exceed \$30 million. For all such grants awarded prior to that date, the annual obligations of  
63 the Commonwealth to make grant payments to individual eligible manufacturers under this section shall  
64 not exceed \$600,000. For all eligible projects awarded grants on or after July 1, 2005, and before July  
65 1, 2009, the aggregate amount of investment performance grants approved under this section in any year  
66 shall not exceed \$3 million, and the aggregate amount of such grants awarded after that date and  
67 outstanding at any time shall not exceed \$15 million. For all such grants awarded on or after that date,  
68 the annual obligations of the Commonwealth to make grant payments to individual recipients under this  
69 section shall not exceed \$300,000. For all eligible projects awarded grants on or after July 1, 2009 *and*  
70 *before July 1, 2015*, the aggregate amount of investment performance grants approved under this section  
71 in any year shall not exceed \$6 million, and the aggregate amount of such grants awarded *on or after*  
72 *that date July 1, 2009, and before July 1, 2015*, and outstanding at any time shall not exceed \$30  
73 million. For all such grants awarded on or after *that date July 1, 2009, and before July 1, 2015*, the  
74 annual obligations of the Commonwealth to make grant payments to individual recipients under this  
75 section shall not exceed \$1 million. *For all eligible projects awarded grants on or after July 1, 2015,*  
76 *the aggregate amount of investment performance grants approved under this section in any year shall*  
77 *not exceed \$6 million, and the aggregate amount of such grants awarded on or after July 1, 2015, and*  
78 *outstanding at any time shall not exceed \$30 million. For all such grants awarded on or after July 1,*  
79 *2015, the annual obligations of the Commonwealth to make grant payments to individual recipients*  
80 *under this section shall not exceed \$1 million.*

81 G. Any eligible manufacturer or research and development service shall be eligible to receive a grant  
82 from the Fund in five equal installments beginning in the third year after the capital investment is  
83 completed and the Partnership has verified that the requirements applicable to such grant have been  
84 satisfied. Any eligible manufacturer or research and development service located in a fiscally distressed  
85 area of the State, as defined in the guidelines implementing this chapter, shall be eligible to begin  
86 receiving grants in the second year after the capital investment is completed and verified.

87 **§ 2.2-5102. Performance grant for major eligible manufacturers.**

88 A. As used in this section, "major eligible employer" means any eligible manufacturer or other  
89 nonmanufacturing basic employer that makes a capital investment of at least \$100 million that results in  
90 the creation of at least 1,000 new jobs. For corporate headquarters and other basic employers that make  
91 a capital investment of at least \$100 million and create at least 400 new jobs paying at least twice the  
92 prevailing average wage for the area, the 1,000 job requirement may be reduced in proportion to the  
93 factor by which the wages for the new jobs exceed the prevailing average wage for the area. All other  
94 provisions of this chapter shall apply equally to major eligible manufacturers and major eligible  
95 nonmanufacturing basic employers, in this chapter collectively referred to as "major eligible employers."

96 B. Subject to the appropriation by the General Assembly of sufficient moneys to the Major Eligible  
97 Employer Grant subfund, any major eligible employer shall be eligible for a grant under this section of  
98 up to \$25 million, to be payable from such subfund over a period of not less than five years and not  
99 more than seven years, commencing in the ~~sixth~~ *third* year following the approval by the Secretary of  
100 the employer's grant application. ~~Any major eligible employer located in a fiscally distressed area of the~~  
101 ~~State, as defined in the guidelines implementing this chapter, shall be eligible to begin receiving grants~~  
102 ~~in the fourth year after the capital investment is completed and verified.~~

103 C. The Partnership shall establish an application process by which major eligible employers may  
104 apply for a grant under this section. An application for a grant under this section shall not be approved  
105 until the Partnership has verified that the capital investment has been completed.

106 D. The Comptroller shall not draw any warrants to issue checks for grants under this chapter without  
107 a specific legislative appropriation as specified in conditions and restrictions on expenditures in the  
108 appropriation act. The payment of any grant under this section shall be in accordance with the terms and  
109 conditions set forth in a memorandum of understanding between a major eligible employer and the  
110 Commonwealth. These terms and conditions shall supplement the provisions of this chapter and shall  
111 include but not be limited to the terms of the payment of the grant. The payment of the grant shall be  
112 made in full or in proportion to a major eligible employer's fulfillment of the terms of the memorandum  
113 of understanding. The Secretary shall consult with the House Committee on Appropriations and the  
114 Senate Committee on Finance prior to entering into any memorandum of understanding. The House  
115 Committee on Appropriations and the Senate Committee on Finance shall have the opportunity to review  
116 any memorandum of understanding prior to its execution by the Commonwealth.

117 **§ 2.2-5102.1. Virginia Economic Development Incentive Grants.**

118 A. Subject to the appropriation by the General Assembly of sufficient moneys to the Economic  
119 Development Incentive Grant subfund, any eligible company that meets the requirements of this section  
120 and is not awarded a grant under § 2.2-5101 or 2.2-5102 for the same project shall be eligible to apply

for an economic development incentive grant as provided in this section.

B. The Partnership shall establish an application process by which eligible companies may apply for a grant under this section. An application for a grant under this section shall not be approved for payment until the Partnership has verified that the applicable requirements of the memorandum of agreement have been satisfied.

C. The amount of the economic development incentive grant that an eligible company may receive under this section shall be determined at the sole discretion of the Governor based on the recommendation of the Secretary. The determination of the appropriate amount for an economic development incentive grant shall be based on the application of guidelines that establish criteria for correlating the amount of a grant to the relative value to the Commonwealth of the new investment and employment.

D. The Partnership shall assist the Secretary in developing objective guidelines that shall be used in awarding economic development incentive grants. No grant shall be awarded until the Secretary has provided copies of such guidelines for review to the chairmen of the House Committee on Appropriations and the Senate Committee on Finance. The preparation of the guidelines shall be exempt from the requirements of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act (§ 2.2-4000 et seq.). The guidelines shall require determinations regarding the amount of investment performance grants to address:

1. The number of new jobs created by the capital investment;
2. The wages paid for the new jobs and the amount by which wages exceed the average wage for the locality or region;
3. The amount of the capital investment;
4. The net present value of benefits to Virginia;
5. The amount of other incentives offered by the Commonwealth and the locality; and
6. The importance of the facility to the economy of the locality or region.

The guidelines shall also address the eligibility of companies that make a capital investment in phases over a period of years, and limits on eligibility for multiple grants by the same company within stated periods of time.

E. For eligible projects awarded grants prior to July 1, 2010, the aggregate amount of economic development incentive grants payable under this section in any fiscal year shall not exceed \$6 million, and the aggregate amount of such grants outstanding that were awarded prior to July 1, 2010, shall not exceed \$30 million. For eligible projects awarded grants on or after July 1, 2010 *and before July 1, 2015*, the aggregate amount of economic development incentive grants payable under this section in any fiscal year shall not exceed \$6 million and the aggregate amount of such grants outstanding on or after July 1, 2010, *and before July 1, 2015*, shall not exceed \$30 million. *For eligible projects awarded grants on or after July 1, 2015, the aggregate amount of economic development incentive grants payable under this section in any fiscal year shall not exceed \$6 million and the aggregate amount of such grants outstanding on or after July 1, 2015, shall not exceed \$30 million.*

F. Any eligible company shall be eligible to receive a grant from the Fund in no fewer than five installments beginning in the third year after the Partnership has verified that the requirements applicable to such grant have been satisfied. All such terms shall be negotiated and set forth in a memorandum of agreement.

G. The Comptroller shall not draw any warrants to issue checks for grants under this chapter without a specific legislative appropriation as specified in conditions and restrictions on expenditures in the appropriation act. The payment of any grant under this section shall be in accordance with the terms and conditions set forth in a memorandum of agreement between a major eligible employer and the Commonwealth. These terms and conditions shall supplement the provisions of this chapter and shall include but not be limited to the terms of the payment of the grant. The payment of the grant shall be made in full or in proportion to a major eligible employer's fulfillment of the terms of the memorandum of agreement.