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SENATE BILL NO. 1449

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on February 5, 2015)

(Patron Prior to Substitute—Senator Saslaw)

A BILL to amend the Code of Virginia by adding a section numbered 2.2-115.1, relating to the Governor's Powering Economic Growth Program.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 2.2-115.1 as follows:

§ 2.2-115.1. Governor's Powering Economic Growth Program.

A. As used in this section, unless the context requires otherwise:

"Incentive" means a subsidy provided by the Governor to a qualified economic development project for the purpose of lowering the cost of energy for the qualified economic development project.

"New job" means employment of an indefinite duration, created as the direct result of the private investment, for which the firm pays the wages and standard fringe benefits for its employee, requiring a minimum of either (i) 35 hours of the employee's time a week for the entire normal year of the firm's operations, which "normal year" must consist of at least 48 weeks, or (ii) 1,680 hours per year. "New job" may include positions with contractors, provided that all other requirements for a new job are met. "New job" does not include seasonal or temporary positions created when a job function is shifted from an existing location in the Commonwealth to the location of the economic development project, positions with suppliers, or multiplier or spin-off jobs.

"Prevailing average wage" means the amount determined by the Virginia Employment Commission to be the average wage paid to workers in the county or city of the Commonwealth where the economic development project is located. The prevailing average wage shall be determined without regard to any fringe benefits.

"Private investment" means the private investment required under this section.

"Program" means the Governor's Powering Economic Growth Program.

"Qualified economic development project" means an economic development project that meets a set of minimum criteria for the potential awarding of incentives. "Qualified economic development projects" may include businesses considering doing business in the Commonwealth, existing businesses currently doing business in the Commonwealth that are considering expansion, and existing businesses currently doing business in the Commonwealth that are considering moving operations outside of the Commonwealth.

B. There is created the Governor's Powering Economic Growth Program to be used by the Governor to attract economic development projects, secure the expansion of existing businesses in the Commonwealth, and retain existing businesses in the Commonwealth. The Program shall consist of an allocation of incentives for the purposes of lowering the cost of energy for a qualified economic development project.

C. The Virginia Economic Development Partnership shall develop a framework consisting of minimum criteria for determining what constitutes a qualified economic development project and for awarding incentives to a qualified economic development project. The criteria for determining a qualified economic development project and awarding such incentives shall include (i) job creation or retention, (ii) private capital investment, (iii) estimated amount of power consumed annually, and (iv) anticipated additional or retained state tax revenue expected to accrue to the state and affected localities as a result of the capital investment and jobs created or retained. Incentive allocations shall be approved by the Governor and made in accordance with guidelines established by the Virginia Economic Development Partnership. The Virginia Economic Development Partnership shall be responsible for monitoring the meeting of criteria by the qualified economic development project.

D. The Program may receive and accept from any federal, state, or private agency, foundation, corporation, association, or person gifts, bequests, grants, or donations to fulfill the purposes of the Program.

E. It shall be the policy of the Commonwealth that incentives shall not be used for any economic development project in which a business relocates or expands its operations in one or more Virginia localities and simultaneously closes its operations or substantially reduces the number of its employees in another Virginia locality. The Secretary of Commerce and Trade shall enforce this policy and for any exception thereto shall promptly provide written notice to the Chairmen of the Senate Committee on Finance and the House Committee on Appropriations, which notice shall include a justification for any exception to such policy.

F. The Virginia Economic Development Partnership shall assist the Governor in developing objective

60 *guidelines and criteria that shall be used in awarding incentives from the Program. The guidelines may*
61 *require that as a condition of receiving any incentive that is based on employment goals, a recipient*
62 *company must provide copies of employer quarterly payroll reports that have been provided to the*
63 *Virginia Employment Commission to verify the employment status of any position included in the*
64 *employment goal. The guidelines and criteria shall include provisions for a cap on the amount of*
65 *incentives to be provided to any individual project. At the discretion of the Governor, this cap may be*
66 *waived for qualifying projects of regional or statewide interest.*

67 *G. The Governor shall provide incentives and commitments from the Program not to exceed the total*
68 *number of incentives available for the Program.*

69 *H. The preparation of the guidelines for the Program shall be exempt from the requirements of*
70 *Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act. Actions of the Virginia Economic*
71 *Development Partnership relating to the allocation and awarding of incentives shall be exempt from the*
72 *provisions of the Administrative Process Act (§ 2.2-4000 et seq.) pursuant to subdivision B 4 of*
73 *§ 2.2-4002.*