

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 2.2-5100 of the Code of Virginia, relating to the Virginia Investment*
 3 *Partnership Act; definitions.*

4 [H 243]
 5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 2.2-5100 of the Code of Virginia is amended and reenacted as follows:**

8 § 2.2-5100. Short title; definitions.

9 A. This chapter shall be known and may be cited as the "Virginia Investment Partnership Act."

10 B. As used in this chapter, unless the context requires a different meaning:

11 "Average manufacturing wage" means that amount determined by the Virginia Employment
 12 Commission to be the average wage paid manufacturing workers in a locality or region of the
 13 Commonwealth.14 "Average nonmanufacturing wage" means that amount determined by the Virginia Employment
 15 Commission to be the average wage paid nonmanufacturing workers in basic employment in a locality
 16 or region of the Commonwealth.17 "Basic employment" means employment that brings new or additional income into Virginia and adds
 18 to the gross state product.19 "Capital investment" means an investment in real property, personal property, or both, at a
 20 manufacturing or basic nonmanufacturing facility within the Commonwealth that is capitalized by the
 21 company and that increases the productivity of the manufacturing facility, results in the creation,
 22 development or utilization of a more advanced technology than is in use immediately prior to such
 23 investment, or both. In order to qualify as a capital investment, an investment in technology shall result
 24 in a measurable increase in capacity or productivity, a measurable decrease in the production of flawed
 25 product, or both. Expenditures for maintenance, replacement or repair of existing machinery, tools and
 26 real property shall not constitute a capital investment; however, expenditures for the replacement of
 27 property shall not be ineligible for designation as a capital investment if such replacement results in a
 28 measurable increase in productivity.29 "Eligible company" means, for companies located in a Metropolitan Statistical Area with a population
 30 of 300,000 or more in the ~~2000~~ *most recently preceding decennial* census, a Virginia employer that:31 a. (i) creates or causes to be created at least 400 jobs with average salaries at least 50 percent greater
 32 than the Prevailing Average Wage or (ii) creates or causes to be created at least 300 jobs with average
 33 salaries at least 100 percent greater than the Prevailing Average Wage, and

34 b. makes a capital investment of at least \$5 million or \$6,500 per job, whichever is greater.

35 For all companies located elsewhere in Virginia, "eligible company" shall mean a Virginia employer
 36 that creates or causes to be created at least 200 jobs with average salaries at least 50 percent greater
 37 than the Prevailing Average Wage, and making a capital investment of at least \$6,500 per job.38 "Eligible manufacturer or research and development service" means an existing Virginia manufacturer
 39 or research and development service that makes a capital investment of at least \$25 million that is
 40 announced on or after June 1, 1998, which investment does not result in any net reduction in
 41 employment within one year after the capital investment has been completed and verified. Any entity
 42 participating in any other production grant program in the Commonwealth shall not be an eligible
 43 manufacturer or research and development service.44 "Eligible research and development service" means an existing Virginia research and development
 45 service that supports manufacturing and that makes a capital investment of at least \$25 million, which
 46 investment does not result in any net reduction in employment within one year after the capital
 47 investment has been completed and verified. Any entity participating in any other production grant
 48 program in the Commonwealth shall not be eligible.49 "Existing Virginia manufacturer" means a manufacturer that has a legal presence within the
 50 Commonwealth for at least ~~five~~ *three* years prior to making the announcement of the capital investment
 51 that makes it an eligible manufacturer.

52 "Flawed product" means an irregular unit of goods that cannot be sold to an end user.

53 "Fund" means the Virginia Investment Partnership Grant Fund created pursuant to § 2.2-5104,
 54 comprised of (i) the Major Eligible Employer Grant subfund, (ii) the Investment Performance Grant
 55 subfund, and (iii) the Economic Development Incentive Grant subfund.

56 "Major eligible employer" means an existing Virginia manufacturer or any other nonmanufacturing

57 basic employer that makes a capital investment of at least \$100 million and creates at least 1,000 jobs,
58 or corporate headquarters and other basic employers that make a capital investment of at least \$100
59 million and create at least 400 jobs paying at least twice the prevailing average wage for the area.

60 "Manufacturer" means a business firm owning or operating a manufacturing establishment as defined
61 in the Standard Industrial Classification Manual issued by the U.S. Office of Management and Budget or
62 the North American Industry Classification System Manual issued by the United States Census Bureau.

63 "Net present value of benefits to Virginia" means the present value of the amount by which (i) the
64 anticipated additional state tax revenue expected to accrue to the Commonwealth as a result of the
65 capital investment and jobs created, over a period following the completion of the capital investment not
66 to exceed 20 years, exceeds (ii) the value of all incentives provided by the Commonwealth, including
67 any grant under this article, for such capital investment during that period.

68 "New job" means employment of an indefinite duration at the eligible facility, created as the direct
69 result of the capital investment, for which the standard fringe benefits are paid by the firm for the
70 employee, requiring a minimum of either (i) 35 hours of an employee's time a week for the entire
71 normal year of the firm's operations, which "normal year" must consist of at least 48 weeks or (ii) 1,680
72 hours per year. Seasonal or temporary positions, positions created when a job function is shifted from an
73 existing location in the Commonwealth to the facility, and positions with contractors, suppliers, and
74 similar multiplier or spin-off jobs shall not qualify as new jobs under this article.

75 "Partnership" means the Virginia Economic Development Partnership.

76 "Prevailing Average Wage" means that amount determined by the Virginia Employment Commission
77 to be the average wage paid workers in the city or county of the Commonwealth where the eligible
78 company is located.

79 "Productivity" means the number of hours of labor required to produce a unit of goods.

80 "Research and development service" means a business firm owning or operating an establishment
81 engaged in conducting research and experimental development that supports manufacturing in the
82 physical, engineering and life sciences as defined in the North American Industry Classification System
83 Manual issued by the United States Census Bureau.

84 "Secretary" means the Secretary of Commerce and Trade.