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## SENATE BILL NO. 1321

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance  
on February 3, 2009)

(Patron Prior to Substitute—Senator Locke)

A BILL to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 22.6, consisting of a section numbered 59.1-284.23, relating to an advanced shipbuilding training grant program.

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

**1. That the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 22.6, consisting of a section numbered 59.1-284.23, as follows:**

## CHAPTER 22.6.

## ADVANCED SHIPBUILDING TRAINING GRANT PROGRAM.

§ 59.1-284.23. Advanced Shipbuilding Training Grant Program; eligible city.

A. As used in this section:

"Advanced shipbuilding" means (i) the manufacture, construction, assembly, overhaul, repair, and test of nuclear vessels and submarines for the U.S. Navy; (ii) the design or development of nuclear vessels and submarines for the U.S. Navy; or (iii) the manufacturing activities of a private company described under 2007 index number 336611 of the North American Industry Classification System.

"Base training expense" means the total expenditures made by a qualified shipbuilder in the year prior to entering into a memorandum of understanding that directly and indirectly support training activities.

"Capital investment" means an investment in real property, tangible personal property, or both, within the Commonwealth.

"Eligible city" means the City of Newport News.

"Grant" means the advanced shipbuilding training grant as described in this section.

"Memorandum of understanding" means a performance agreement entered into on or before June 30, 2009, among a qualified shipbuilder, the Commonwealth, and others as appropriate, such as the eligible city, setting forth the requirements for capital investment, base training expenses, training cost, and the creation of new full-time jobs that will make the qualified shipbuilder eligible for a grant under this section.

"New full-time job" means employment of an indefinite duration in an eligible city, created as the direct result of capital investment, for which the average annual wage is at least equal to the prevailing average annual wage in an eligible city and for which the standard fringe benefits are paid by the qualified shipbuilder, requiring a minimum of either (i) 35 hours of an employee's time per week for the entire normal year of such qualified shipbuilder's operations, which "normal year" must consist of at least 48 weeks, or (ii) 1,680 hours per year. Seasonal or temporary positions and positions created when a job function is shifted from an existing location in the Commonwealth shall not qualify as new full-time jobs under this section. Other advanced shipbuilding positions, including employees of affiliates, subsidiaries, contractors, or subcontractors of the qualified shipbuilder, may be considered new full-time jobs, if so designated as such in the memorandum of understanding between such qualified shipbuilder, the Commonwealth, and others.

"Qualified shipbuilder" means a shipbuilder located in an eligible city that (i) is expected to make a capital investment of at least \$300 million by June 30, 2012, related to advanced shipbuilding in an eligible city; (ii) is expected to create at least 1,000 new full-time jobs in an eligible city for advanced shipbuilding or activities ancillary to or supportive of advanced shipbuilding; and (iii) maintains an apprenticeship program accredited by the Council for Occupational Education with an average annual enrollment of at least 750 and articulation agreements with local community colleges that allow its graduates to qualify for accredited associate degrees from those institutions.

"Secretary" means the Secretary of Commerce and Trade or his designee.

"Training cost" means a direct or indirect expense paid by a qualified shipbuilder beyond base training expenses to train or retrain a new or existing employee in advanced shipbuilding or activities ancillary to or supportive of advanced shipbuilding, including but not limited to (i) the personnel cost of employees of the qualified shipbuilder conducting the training; (ii) materials and supplies used in providing that training; (iii) tuition and other costs paid to a school or vendor for training of a new or existing employee; or (iv) the capital or lease cost of any facility to provide that training that is built or leased by a qualified shipbuilder after July 1, 2009.

B. Any qualified shipbuilder located in an eligible city shall be eligible to receive a grant each fiscal year beginning with the Commonwealth's fiscal year starting on July 1, 2012, and ending with the Commonwealth's fiscal year starting on July 1, 2021, unless such time frame is extended in accordance

60 with subsection E. The grants under this section (i) shall be paid, subject to appropriation by the  
61 General Assembly, from a fund entitled the Advanced Shipbuilding Training Grant Fund, which Fund is  
62 hereby established on the books of the Comptroller; (ii) shall not exceed \$50 million in the aggregate in  
63 any one fiscal year; and (iii) shall be paid to a qualified shipbuilder during each fiscal year contingent  
64 upon the qualified shipbuilder meeting the requirements for the aggregate of (a) number of new full-time  
65 jobs created and the substantial retention of the same; (b) base training expenses; and (c) amount of the  
66 capital investment made and substantially retained, as set forth in the memorandum of understanding;  
67 and (iv) shall be expended by the qualified shipbuilder on training costs.

68 C. If grants to be paid to qualified shipbuilders under this section in a fiscal year exceed the  
69 aggregate amount available in the Advanced Shipbuilding Training Grant Fund for that year, each  
70 qualified shipbuilder's grants for the year shall equal the amount of grants to which the qualified  
71 shipbuilder would otherwise be eligible multiplied by a fraction. The numerator of the fraction shall  
72 equal the aggregate dollar amount available for payment from the Advanced Shipbuilding Training  
73 Grant Fund for that fiscal year, and the denominator shall equal the aggregate dollar amount of grants  
74 to which all qualified shipbuilders otherwise would be eligible for such fiscal year. The aggregate  
75 amount of the grants payable under this section shall be subject to the following requirements and  
76 limitations:

77 1. Grants shall be awarded after July 1, 2012, and before July 1, 2022, unless such time frame is  
78 extended in accordance with subsection E;

79 2. The amount of the grant to be paid in each fiscal year shall be conditional upon the qualified  
80 shipbuilder meeting the requirements for the (i) aggregate number of new full-time jobs created and the  
81 substantial retention of the same throughout the calendar year that immediately precedes the end of  
82 such fiscal year, (ii) aggregate amount of the capital investment made and substantially retained as of  
83 the last day of the calendar year that immediately precedes the end of such fiscal year, and (iii) the  
84 expenditure of base training expenses as set forth in the memorandum of understanding entered into on  
85 or before June 30, 2009. Grants shall be paid based upon such requirements as agreed to on or before  
86 June 30, 2009, regardless if such memorandum of understanding is later modified, amended, superseded,  
87 or otherwise changed;

88 3. The aggregate amount of grants that may be awarded in a particular fiscal year shall not exceed  
89 the following:

90 a. \$5 million for the Commonwealth's fiscal year beginning July 1, 2012;

91 b. \$10 million, less the total amount of grants previously awarded pursuant to this subsection, for  
92 the Commonwealth's fiscal year beginning July 1, 2013;

93 c. \$15 million, less the total amount of grants previously awarded pursuant to this subsection, for the  
94 Commonwealth's fiscal year beginning July 1, 2014;

95 d. \$20 million, less the total amount of grants previously awarded pursuant to this subsection, for  
96 the Commonwealth's fiscal year beginning July 1, 2015;

97 e. \$25 million, less the total amount of grants previously awarded pursuant to this subsection, for the  
98 Commonwealth's fiscal year beginning July 1, 2016;

99 f. \$30 million, less the total amount of grants previously awarded pursuant to this subsection, for the  
100 Commonwealth's fiscal year beginning July 1, 2017;

101 g. \$35 million, less the total amount of grants previously awarded pursuant to this subsection, for  
102 the Commonwealth's fiscal year beginning July 1, 2018;

103 h. \$40 million, less the total amount of grants previously awarded pursuant to this subsection, for  
104 the Commonwealth's fiscal year beginning July 1, 2019;

105 i. \$45 million, less the total amount of grants previously awarded pursuant to this subsection, for the  
106 Commonwealth's fiscal year beginning July 1, 2020; and

107 j. \$50 million, less the total amount of grants previously awarded pursuant to this subsection, for the  
108 Commonwealth's fiscal year beginning July 1, 2021; and

109 4. Grants provided by this section shall not exceed \$50 million in the aggregate or the aggregate  
110 total of training costs expended by a qualified shipbuilder during the period, whichever is less.

111 D. Any qualified shipbuilder applying for a grant under this section shall provide evidence,  
112 satisfactory to the Secretary, of (i) the aggregate number of new full-time jobs created and the  
113 substantial retention of the same throughout the calendar year that immediately precedes the end of the  
114 fiscal year in which the grant is to be paid; (ii) the aggregate amount of the capital investment made  
115 and substantially retained as of the last day of the calendar year that immediately precedes the end of  
116 the fiscal year in which the grant is to be paid; and (iii) the aggregate amount of base training  
117 expenses as of the last day of the calendar year that immediately precedes the end of the fiscal year in  
118 which the grant is to be paid. The application and evidence shall be filed with the Secretary in person  
119 or by mail no later than April 1 each year following the calendar year in which the qualified  
120 shipbuilder meets such aggregate new full-time job requirements and aggregate capital investments.  
121 Failure to meet the filing deadline shall result in a deferral of a scheduled grant payment set forth in

subsection C. For filings by mail, the postmark cancellation shall govern the date of the filing determination.

E. The memorandum of understanding may provide that if a grant payment has been deferred for any reason, including the initial failure to meet the aggregate capital investment or the aggregate new full-time job requirements or the aggregate base training expenses set forth in the memorandum of understanding or the occurrence of any substantial reduction in such new full-time job requirements or capital investment requirements after such requirements have been met but before the grant payment has been made, payment in a subsequent fiscal year for which such requirements have been met for the immediately preceding calendar year shall include both the deferred payment and the scheduled grant payment as provided in subsection C.

F. Within 30 days after the filing deadline in subsection D, the Secretary shall certify to (i) the Comptroller and (ii) each qualified shipbuilder the amount of the grant to which such qualified shipbuilder is entitled under this section for payment in the current fiscal year. Payment of such grant shall be made by check issued by the Treasurer of Virginia on warrant of the Comptroller by June 30 of such fiscal year.

G. As a condition of receipt of a grant, a qualified shipbuilder shall make available to the Secretary or his designee for inspection upon his request relevant and applicable documents to determine whether the qualified shipbuilder has met the requirements for the receipt of grants as set forth in this section and subject to the memorandum of understanding. The Comptroller shall not draw any warrants to issue checks for the grant program under this section without a specific appropriation for the same. All such documents appropriately identified by the qualified shipbuilder shall be considered confidential and proprietary.

2. That a copy of the executed memorandum of understanding, as defined in § 59.1-284.23 of the Code of Virginia, shall be provided by July 30, 2009, to the chairmen of the House Committee on Appropriations and the Senate Committee on Finance, with any analysis by the Virginia Economic Development Partnership of the economic impact of the expected capital investment and new full-time jobs described in the memorandum of understanding.

3. That the memorandum of understanding, as defined in § 59.1-284.23 of the Code of Virginia, may state that the requirement to create and maintain new full-time jobs may be met entirely within the Virginia Class Submarine program. No full-time jobs or capital investments that are subject to any other performance agreement with the Commonwealth or a locality may be counted under the memorandum of understanding pursuant to the grant program established pursuant to Chapter 22.6 (§ 59.1-284.23) of Title 59.1 of the Code of Virginia.