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HOUSE BILL NO. 2495

Offered January 21, 2011

A *BILL to amend and reenact § 59.1-284.23 of the Code of Virginia, the fourth enactment of Chapter 798 of the Acts of Assembly of 2009, and the fourth enactment of Chapter 850 of the Acts of Assembly of 2009 and to amend Chapter 798 of the Acts of Assembly of 2009 by adding a fifth enactment and Chapter 850 of the Acts of Assembly of 2009 by adding a fifth enactment, relating to the Advanced Shipbuilding Training Facility Grant Program.*

Patrons—Jones, Abbott, BaCote and Ward

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:**1. That § 59.1-284.23 of the Code of Virginia is amended and reenacted as follows:**

§ 59.1-284.23. Advanced Shipbuilding Training Facility 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, in 2008~~ 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 *or its industrial development authority.*

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

"Memorandum of understanding" means a performance agreement entered into on or before ~~June 30, 2009~~ *August 31, 2011*, among a qualified shipbuilder, the Commonwealth, and others as appropriate, such as the eligible city, setting forth the requirements for capital investment, training costs, 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 positions, which may or may not be of indefinite duration, including supplemental employees of affiliates, subsidiaries, joint ventures, 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.

"New training facility" means a facility that, pursuant to a Memorandum of Agreement with the Secretary, is to be operated by the qualified shipbuilder for use by the shipbuilding industry, primarily to provide education, training and retraining of workers in the shipbuilding industry. Such training facility may be owned by the qualified shipbuilder, or may be operated by the qualified shipbuilder through a lease agreement with the eligible city, a local industrial development authority, or a private developer.

"Qualified shipbuilder" means a shipbuilder located in an eligible city that (i) makes a new capital investment of at least \$300 million from January 1, 2009 through December 31, 2011, related to advanced shipbuilding in an eligible city; (ii) creates at least 1,000 new full-time jobs in an eligible city for advanced shipbuilding or activities ancillary to or supportive of advanced shipbuilding; (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; and (iv) maintains a level of base training expenditures no less than that spent in calendar year 2008 as set forth in the memorandum of understanding.

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

B. Any qualified shipbuilder located in an eligible city shall be eligible to receive a grant each fiscal

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59 year beginning with the Commonwealth's fiscal year starting on July 1, 2012, and ending with the
60 Commonwealth's fiscal year starting on July 1, 2016, unless such time frame is extended in accordance
61 with subsection C or D. The grants under this section (i) shall be paid, subject to appropriation by the
62 General Assembly, from a fund entitled the Advanced Shipbuilding Training Facility Fund, which Fund
63 is hereby established on the books of the Comptroller; (ii) shall not exceed \$25 million in the aggregate;
64 (iii) shall be paid to a qualified shipbuilder during each fiscal year contingent upon the qualified
65 shipbuilder meeting the requirements for the aggregate of (a) number of new full-time jobs created and
66 the substantial retention of the same, (b) maintenance of base training expenses, and (c) amount of the
67 capital investment made and substantially retained, as set forth in the memorandum of understanding;
68 and (iv) shall be expended by the qualified shipbuilder on training costs or to pay the capital or lease
69 cost of any new training facility to provide that training.

70 1. The amount of the grant to be paid in each fiscal year shall be conditional upon the qualified
71 shipbuilder meeting the requirements for (i) the aggregate number of new full-time jobs created and the
72 substantial retention of the same throughout the calendar year that immediately precedes the beginning
73 of such fiscal year; (ii) the aggregate amount of the capital investment made and substantially retained
74 as of the last day of the calendar year that immediately precedes the beginning of such fiscal year; and
75 (iii) the expenditure of base training expenses as set forth in the memorandum of understanding entered
76 into on or before June 30, 2009. If the qualified shipbuilder has not fully met the grant requirements by
77 December 31, 2011, the period of eligibility may be extended for up to three years, provided that the
78 grants in any given fiscal year shall not exceed \$5 million, plus any amounts deferred in accordance
79 with subsection C or D. Grants shall be paid based upon such requirements as agreed to on or before
80 June 30, 2009, regardless if such memorandum of understanding is later modified, amended, superseded,
81 or otherwise changed;

82 2. The aggregate amount of grants that may be awarded in a particular fiscal year shall not exceed
83 the following:

- 84 a. \$5 million for the Commonwealth's fiscal year beginning July 1, 2012;
- 85 b. \$10 million, less the total amount of grants previously awarded pursuant to this subsection, for the
86 Commonwealth's fiscal year beginning July 1, 2013;
- 87 c. \$15 million, less the total amount of grants previously awarded pursuant to this subsection, for the
88 Commonwealth's fiscal year beginning July 1, 2014;
- 89 d. \$20 million, less the total amount of grants previously awarded pursuant to this subsection, for the
90 Commonwealth's fiscal year beginning July 1, 2015; and
- 91 e. \$25 million, less the total amount of grants previously awarded pursuant to this subsection, for the
92 Commonwealth's fiscal year beginning July 1, 2016; and

93 3. Grants provided by this section shall not exceed \$25 million in the aggregate or the aggregate
94 total of training costs expended by a qualified shipbuilder during the period, whichever is less.

95 C. Any qualified shipbuilder applying for a grant under this section shall provide evidence,
96 satisfactory to the Secretary, of (i) the aggregate number of new full-time jobs created and the
97 substantial retention of the same throughout the calendar year that immediately precedes the beginning
98 of the fiscal year in which the grant is to be paid; (ii) the aggregate amount of the capital investment
99 made and substantially retained as of the last day of the calendar year that immediately precedes the
100 beginning of the fiscal year in which the grant is to be paid; and (iii) the aggregate amount of base
101 training expenses as of the last day of the calendar year that immediately precedes the beginning of the
102 fiscal year in which the grant is to be paid. The application and evidence shall be filed with the
103 Secretary in person or by mail no later than April 1 each year following the calendar year in which the
104 qualified shipbuilder meets such aggregate new full-time job requirements and aggregate capital
105 investments. Failure to meet the filing deadline shall result in a deferral of a scheduled grant payment
106 set forth in subsection B. For filings by mail, the postmark cancellation shall govern the date of the
107 filing determination.

108 D. The memorandum of understanding may provide that if a grant payment has been deferred for
109 any reason, including the initial failure to meet the aggregate capital investment or the aggregate new
110 full-time job requirements or the aggregate base training expenses set forth in the memorandum of
111 understanding or the occurrence of any substantial reduction in such new full-time job requirements or
112 capital investment requirements after such requirements have been met but before the grant payment has
113 been made, payment in a subsequent fiscal year for which such requirements have been met for the
114 immediately preceding calendar year shall include both the deferred payment and the scheduled grant
115 payment as provided in subsection B or that a proportional payment, based on the proportional share of
116 the required additional full-time jobs, be made.

117 E. As a condition of receipt of a grant, a qualified shipbuilder shall make available to the Secretary
118 or his designee for inspection upon his request relevant and applicable documents to determine whether
119 the qualified shipbuilder has met the requirements for the receipt of grants as set forth in this section
120 and subject to the memorandum of understanding. The Comptroller shall not draw any warrants to issue

121 checks for the grant program under this section without a specific appropriation for the same. All such
122 documents appropriately identified by the qualified shipbuilder shall be considered confidential and
123 proprietary.

124 *F. An eligible city shall be eligible to receive a grant from the Advanced Shipbuilding Training*
125 *Fund each fiscal year beginning with the Commonwealth's fiscal year starting on July 1, 2012. The*
126 *grants under this subsection may be paid to the eligible city subject to a memorandum of understanding*
127 *between the Secretary, the eligible city and the qualified shipbuilder which provides that: (i) the eligible*
128 *city or a private developer will build a new training facility for use by the qualified shipbuilder and the*
129 *qualified shipbuilder will use the new training facility during the grant period; (ii) the new training*
130 *facility is part of a development plan approved by the eligible city and the qualified shipbuilder that*
131 *includes additional private capital investment in the immediate vicinity of the new training facility that*
132 *is equal to or greater than the cost of the facility; and (iii) in the event it receives use of the new*
133 *training facility as contemplated hereunder, the qualified shipbuilder waives its right to apply for grants*
134 *under subsection B. Grants to an eligible city may only be used for the construction, lease or*
135 *lease-purchase of the new training facility, including related debt service or repayment of any loans*
136 *whose proceeds are used for such costs. The memorandum of understanding may provide for a total*
137 *amount of grants under this subsection of not more than \$42 million and for a period of eligibility of up*
138 *to ten years, unless such time frame is extended in accordance with subsection C or D, and may provide*
139 *for a contractual agreement for payments by the Commonwealth. At the conclusion of the grant period,*
140 *the Qualified Shipbuilder shall have the right to assume ownership of the new training facility.*

141 **2. That the fourth enactment of Chapter 798 of the Acts of Assembly of 2009 is amended and**
142 **reenacted as follows:**

143 **4. That no later than 90 days following the application for payment of the fifth installment of**
144 **training facility grants under the first enactment of this act, the Secretary shall provide a**
145 **report to the chairmen of the House Committee on Appropriations and the Senate Committee**
146 **on Finance detailing the performance of the qualified shipbuilder under the training facility**
147 **grant program. Such review shall include, but not be limited to, an evaluation of (i) return on**
148 **investment, (ii) the time frame for return on investment to the Commonwealth, (iii) average**
149 **wages of the new full-time jobs created by the qualified shipbuilder, (iv) the additional capital**
150 **investment made by the qualified shipbuilder, and (v) the status of the apprenticeship program**
151 **and facilities. If the Secretary finds the qualified shipbuilder has met the terms of the program,**
152 **he may recommend eligibility for an additional \$25 million in grants for additional training**
153 **activities by the qualified shipbuilder payable over a subsequent five-year period. No more than**
154 **\$50 million in grants may be paid under this program to any combination of recipients.**

155 **3. That the fourth enactment of Chapter 850 of the Acts of Assembly of 2009 is amended and**
156 **reenacted as follows:**

157 **4. That no later than 90 days following the application for payment of the fifth installment of**
158 **training facility grants under the first enactment of this act, the Secretary shall provide a**
159 **report to the chairmen of the House Committee on Appropriations and the Senate Committee**
160 **on Finance detailing the performance of the qualified shipbuilder under the training facility**
161 **grant program. Such review shall include, but not be limited to, an evaluation of (i) return on**
162 **investment, (ii) the time frame for return on investment to the Commonwealth, (iii) average**
163 **wages of the new full-time jobs created by the qualified shipbuilder, (iv) the additional capital**
164 **investment made by the qualified shipbuilder, and (v) the status of the apprenticeship program**
165 **and facilities. No more than \$50 million in grants may be paid under this program to any**
166 **combination of recipients.**

167 **4. That Chapter 798 of the Acts of Assembly of 2009 is amended by adding a fifth enactment as**
168 **follows:**

169 **5. That a copy of the executed memorandum of understanding, as defined in § 59.1-284.23 of the**
170 **Code of Virginia in the first enactment, shall be provided by August 31, 2011, to the chairmen of**
171 **the House Committee on Appropriations and the Senate Committee on Finance, with any analysis**
172 **by the Virginia Economic Development Partnership of the economic impact of the expected capital**
173 **investment and new full-time jobs described in the memorandum of understanding. Any**
174 **subsequent changes to the memorandum of understanding shall be submitted to the chairmen of**
175 **the House Committee on Appropriations and the Senate Committee on Finance not later than 30**
176 **days after being executed by the Secretary. All matters, including but not limited to any**
177 **memorandum of agreement, or any other agreement, necessary to effectuate the purposes of this**
178 **act shall be finalized on or before October 31, 2011. The Governor shall include in the Budget**
179 **Bill he submits to the General Assembly in 2011 pursuant to § 2.2-1509 all appropriations**
180 **necessary to fulfill the obligations of the Commonwealth pursuant to such final agreements.**

181 **5. That Chapter 850 of the Acts of Assembly of 2009 is amended by adding a fifth enactment as**

182 follows:

183 5. *That a copy of the executed memorandum of understanding, as defined in § 59.1-284.23 of the*
184 *Code of Virginia in the first enactment, shall be provided by August 31, 2011, to the chairmen of*
185 *the House Committee on Appropriations and the Senate Committee on Finance, with any analysis*
186 *by the Virginia Economic Development Partnership of the economic impact of the expected capital*
187 *investment and new full-time jobs described in the memorandum of understanding. Any*
188 *subsequent changes to the memorandum of understanding shall be submitted to the chairmen of*
189 *the House Committee on Appropriations and the Senate Committee on Finance not later than 30*
190 *days after being executed by the Secretary. All matters, including but not limited to any*
191 *memorandum of agreement, or any other agreement, necessary to effectuate the purposes of this*
192 *act shall be finalized on or before October 31, 2011. The Governor shall include in the Budget*
193 *Bill he submits to the General Assembly in 2011 pursuant to § 2.2-1509 all appropriations*
194 *necessary to fulfill the obligations of the Commonwealth pursuant to such final agreements.*