

# VIRGINIA ACTS OF ASSEMBLY -- 2017 SESSION

## CHAPTER 264

*An Act to amend and reenact §§ 2.2-1611 and 2.2-1615 of the Code of Virginia, relating to the Small Business Jobs Grant Fund Program.*

[H 1969]

Approved March 3, 2017

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

**1. That §§ 2.2-1611 and 2.2-1615 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-1611. Small Business Jobs Grant Fund Program; composition; general qualifications.**

A. There is hereby created the Small Business Jobs Grant Fund Program (the Program) to support private sector job creation by encouraging the expansion of existing Virginia businesses and the start-up of new business operations in Virginia.

B. To be eligible for assistance under the Program, a company shall:

1. Create or sustain employment for the Commonwealth in a basic sector industry or function, which would include businesses or functions that directly or indirectly derive more than ~~50~~ 35 percent of their revenues from out-of-state sources, as determined by the Department;

2. Pay a minimum entry-level wage rate per hour of at least 1.35 times the federal minimum wage. In areas that have an unemployment rate of one and one-half times the statewide average unemployment rate, the wage rate minimum may be waived by the Department. Only full-time positions that qualify for benefits shall be eligible for assistance;

3. Submit copies of employer quarterly payroll reports provided by the company to the Virginia Employment Commission to verify the employment status of each position that has been included in a grant awarded under a component program; and

4. Meet such additional criteria as may be set forth by the Department.

**§ 2.2-1615. Small Business Jobs Grant Fund Program.**

A. As used in this section:

"Base year" means the calendar year immediately preceding the 24-month period in which a small business creates new full-time positions making it eligible for grants under this section.

"Capital investment" means an investment in real property, personal property, or both, at a manufacturing or basic nonmanufacturing facility within the Commonwealth that is or may be capitalized by the company and that establishes or increases the productivity of the manufacturing facility, results in the utilization of a more advanced technology than is in use immediately prior to such investment, or both.

"New full-time position" means employment of a resident of the Commonwealth for an indefinite duration in the Commonwealth at a small business requiring (i) a minimum of 35 hours of an employee's time per week for the entire normal year of the small business's operation, which "normal year" shall consist of at least 48 weeks, or (ii) a minimum of 1,680 hours per year. Seasonal, temporary, or contract positions or positions created when a job function is shifted from an existing location in the Commonwealth shall not qualify as a new full-time position.

"Small business" means an independently owned and operated business that has been organized pursuant to Virginia law or maintains a principal place of business in Virginia and has ~~250~~ 50 or fewer employees in its base year *and average annual gross receipts of \$3 million or less averaged over the previous 24-month period.*

B. The Department shall develop the Small Business Jobs Grant Fund Program to assist Virginia small businesses job creation.

C. In addition to the requirements of subsection B of § 2.2-1611 regarding company eligibility, to be eligible for assistance under the Program a company shall (i) create a minimum of five net new full-time positions and (ii) make a new capital investment of at least ~~\$100,000~~ \$50,000.

The Secretary of Commerce and Trade may waive these requirements, but shall promptly provide written notice of any such waiver to the Chairmen of the Senate Finance and House Appropriations Committees, which notice shall include a justification for any waiver of these requirements.

D. There is hereby created in the state treasury a permanent nonreverting fund to be known as the Small Business Jobs Grant Fund (the Fund). The Fund shall consist of (i) transfers from the Virginia Jobs Investment Program funded in the general appropriation act currently in effect and (ii) any other moneys designated for deposit to the Fund from any source, public or private. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. The Fund shall be managed and administered within the Department.

E. Moneys in the Fund shall be used solely for the purpose of providing grants to small businesses

that create at least five new full-time positions within any 24-month period. A small business meeting the conditions of this section shall be eligible to receive a grant from the Fund ranging from \$500 to \$2,000 per each new full-time position that has been created based on criteria established by the Department pursuant to subsection G.

In awarding grants, priority shall be given to small businesses creating new full-time positions in areas with an annual average unemployment rate of more than 125 percent of the statewide average unemployment rate.

F. Grant payments under this section shall be conditional upon the small business substantially retaining (i) the number of full-time positions in its base year plus (ii) the number of new full-time positions for which grants are to be paid. In no case shall the retention period, as determined by the Department, for any new full-time position for which a grant is to be paid be less than 12 months.

No grant shall be awarded or paid for any new full-time position created prior to July 1, 2010. No grant shall be awarded or paid for any new full-time position created solely as a result of a merger, acquisition, or similar business combination or a change in business form unless such new full-time position is moved into the Commonwealth from outside of the Commonwealth.

G. The Department shall establish criteria for determining the amount of the grant to be awarded for each eligible new full-time position created by a small business that will be based on the level of education, training, and experience required for the job. Such criteria shall also (i) prohibit a small business from receiving more than one grant under this section for the same position and (ii) require the employee to be employed in the new full-time position for at least 90 days prior to the award of the grant.

H. The Department shall determine the qualifications, terms, and conditions for the use of the Fund and the accounts thereof. In connection with applications for claims made against the Fund, the Department may require the production of any document, instrument, certificate, or legal opinion or any other information it deems necessary or convenient. All claims made against the Fund shall be approved by the Department.