

VIRGINIA ACTS OF ASSEMBLY -- 2018 SESSION

CHAPTER 744

An Act to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 22.11, consisting of a section numbered 59.1-284.30, relating to Special Workforce Grant Fund; creation.

[H 1551]

Approved April 4, 2018

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 22.11, consisting of a section numbered 59.1-284.30, as follows:

CHAPTER 22.11.

SPECIAL WORKFORCE GRANT FUND.

§ 59.1-284.30. Special Workforce Grant Fund created.

A. As used in this section, unless the context requires a different meaning:

"Capital investment" means an investment on or after May 1, 2017, in real property, tangible personal property, or both, at a facility within an eligible county that has been capitalized or is subject to being capitalized. "Capital investment" may include (i) a capital expenditure related to a leasehold interest in real property; (ii) the purchase or lease of furniture, fixtures, machinery, and equipment, including under an operating lease; and (iii) necessary changes to facilities to accommodate specific business needs and tenant improvements made by or on behalf of the qualified company.

"Eligible county" means Fairfax County.

"Facility" means the building, group of buildings, or corporate campus, including any related machinery, furniture, fixtures, and equipment, that is owned, leased, licensed, occupied, or otherwise operated by the qualified company for use in the administration, management, and operation of its business.

"Fund" means the Special Workforce Grant Fund.

"Grant" means a grant from the Special Workforce Grant Fund awarded to a qualified company for up to \$5,600 per new full-time job, and \$25,000 per \$1 million of capital investment, not to exceed a total aggregate award of \$10.5 million. Grants are intended to pay or to reimburse the qualified company for the costs of workforce development, workforce recruitment, and instructional or training purposes. The qualified company may use the award for any lawful purpose.

"Memorandum of understanding" means a performance agreement or related document entered into on or before August 1, 2018, between a qualified company and the Commonwealth that sets forth the requirements for capital investment and the creation of new full-time jobs for the qualified company to be eligible for a grant from the Fund.

"New full-time job" means employment of an indefinite duration at the facility for which wages and standard fringe benefits are paid, for which the annual average wage is at least equal to the prevailing average wage of the eligible county, and requiring a minimum of either (i) 35 hours of an employee's time per week for the entire normal year of the employer's operations, which "normal year" must consist of at least 48 weeks, or (ii) 1,680 hours per year. A new full-time job shall be a job position in which an employee, an employee of an employee leasing company, or a combination of such employees work at the facility. 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, joint ventures, contractors, or subcontractors of the qualified company, may be considered new full-time jobs if designated as such in a memorandum of understanding. "New full-time job" does not include any existing full-time positions at the facility prior to May 1, 2017. The Commonwealth may gauge compliance with the new full-time jobs requirements for the qualified company by reference to the new payroll generated by a qualified company, as indicated in a memorandum of understanding.

"Qualified company" means an e-commerce company, including its affiliates, that between May 1, 2017, and December 31, 2022, is expected to (i) make a capital investment at a facility of at least \$84 million and (ii) create at least 1,500 new full-time jobs at the facility related to, or supportive of, its e-commerce business.

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

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Special Workforce Grant Fund. The Fund shall be established on the books of the Comptroller. All funds appropriated for such Fund shall be paid into the state treasury and credited to the Fund. 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. Moneys in the Fund shall be used solely for the purpose to pay grants.

Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller pursuant to subsection F.

C. A qualified company shall be eligible to receive grants each fiscal year beginning with the Commonwealth's fiscal year starting on July 1, 2021, and ending with the Commonwealth's fiscal year starting on July 1, 2026, unless such timeframe is extended in accordance with the memorandum of understanding. The grants under this section shall be paid to the qualified company from the Fund, subject to appropriation by the General Assembly, during each such fiscal year, contingent upon the qualified company's meeting the requirements set forth in the memorandum of understanding for the number of new full-time jobs created and maintained and the amount of capital investment made. No grant shall be awarded until the qualified company has made a preliminary capital investment of at least \$20 million and has created at least 600 new full-time jobs, and the amount of the grant that may be awarded in a particular fiscal year shall depend on the amount of capital investment and creation of new full-time jobs created to date.

D. The aggregate amount of grants payable under this section shall be calculated in accordance with the memorandum of understanding, estimated to not exceed the following:

- 1. \$5.31 million for the Commonwealth's fiscal year beginning July 1, 2021;*
- 2. \$8.21 million, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, 2022; and*
- 3. \$10.5 million, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, 2023.*

E. A qualified company applying for a grant under this section shall provide evidence, satisfactory to the Secretary, of (i) the aggregate number of new full-time jobs created and maintained as of the last day of the calendar year that immediately precedes the beginning of the fiscal year in which the grant installment is to be paid and (ii) the aggregate amount of the capital investment made as of the last day of the calendar year that immediately precedes the beginning of the fiscal year in which the grant installment is to be paid. The application and evidence shall be filed with the Secretary in person, by mail, or as otherwise agreed upon in the memorandum of understanding, by no later than April 1 each year following the end of the prior calendar year upon which the evidence set forth above is based. Failure to meet the filing deadline shall result in a deferral of a scheduled grant installment payment set forth in subsection D. For filings by mail, the postmark cancellation shall govern the date of the filing determination.

F. Within 30 days of receiving the application and evidence pursuant to subsection E, the Secretary shall certify to the Comptroller and the qualified company the amount of grants to which such qualified company is entitled for payment in the following fiscal year. Payment of such grants shall be made by check issued by the State Treasurer on warrant of the Comptroller in the Commonwealth's fiscal year following the submission of such application. The Comptroller shall not draw any warrants to issue checks for the grants under this section without a specific appropriation for the same.

G. As a condition of receipt of the grants, a qualified company shall make available for inspection to the Secretary or his designee, upon request, all documents relevant and applicable to determining whether the qualified company has met the requirements for the receipt of a grant as set forth in this section and subject to the memorandum of understanding. All such documents appropriately identified by the qualified company shall be considered confidential and proprietary.