

VIRGINIA ACTS OF ASSEMBLY -- 2019 SESSION

CHAPTER 482

An Act to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 22.12, consisting of a section numbered 59.1-284.31, relating to Major Headquarters Workforce Grant Fund.

[H 2356]

Approved March 18, 2019

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 22.12, consisting of a section numbered 59.1-284.31, as follows:

CHAPTER 22.12.

MAJOR HEADQUARTERS WORKFORCE GRANT FUND.

§ 59.1-284.31. Major Headquarters Workforce Grant Fund.

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

"Affiliate" means an entity that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with a qualified company.

"Capital investment" means an investment by or on behalf of a qualified company on or after November 1, 2018, in real property, tangible personal property, or both, at a facility that is properly chargeable to a capital account or would be so chargeable with a proper election. "Capital investment" may include (i) a capital expenditure related to a leasehold interest in a property; (ii) the purchase or lease of furniture, fixtures, machinery, and equipment, including under an operating lease; and (iii) building up-fit and tenant improvements made by or on behalf of a qualified company.

"Eligible county" means Arlington County.

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

"Fund" means the Major Headquarters Workforce Grant Fund.

"Grant" means a grant from the Fund awarded to a qualified company in an amount of \$22,000 per new full-time job for the first 25,000 new full-time jobs, for a maximum aggregate amount of \$550 million, and \$15,564 per new full-time job for up to 12,850 additional new full-time jobs, for an additional maximum aggregate amount of \$200 million, as calculated in accordance with the memorandum of understanding. The grant is intended to pay or to reimburse the qualified company for the costs of workforce development, workforce recruitment, and workforce instruction or training. The qualified company may use the proceeds of the grant for any lawful purpose, including but not limited to those outlined in subsection D of § 2.2-115.

"Memorandum of understanding" means the memorandum of understanding entered into on or about November 12, 2018, among a qualified company, the Commonwealth, and the Virginia Economic Development Partnership Authority that sets forth the requirements for the creation of new full-time jobs for the qualified company to be eligible for grant payments from the Fund. The memorandum of understanding shall contain criteria for the average annual wages for the new full-time jobs to qualify for a grant payment, starting at \$150,000 for calendar year 2019 and escalating at 1.5 percent per year.

"New full-time job" means a position in which employees of a qualified company are principally located at the facility and are expected to work 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. Seasonal or temporary positions shall not qualify as new full-time jobs. A position created when a job function is shifted from an existing location in the Commonwealth shall qualify as a new full-time job if the qualified company certifies that it has hired a new employee to fill substantially the same job at the existing location as that held by the transferred position.

"Qualified company" means a company, including its affiliates, that between November 1, 2018, and December 31, 2038, is expected to (i) make or cause to be made a capital investment at a facility of at least \$2 billion, (ii) create at least 25,000 new full-time jobs, and (iii) potentially create an additional 12,850 jobs.

"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 Major Headquarters 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 of making grant payments pursuant to this chapter. 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 grant payments for each fiscal year beginning with the Commonwealth's fiscal year starting on July 1, 2023, and ending with the Commonwealth's fiscal year starting on July 1, 2042. The grant payments 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 meeting the requirements for receiving grant payments set forth in the memorandum of understanding.

D. For the first 25,000 new full-time jobs, the aggregate amount of grant payments payable under this chapter shall not exceed \$550 million and shall be calculated in accordance with the memorandum of understanding. For the next 12,850 new full-time jobs, the aggregate amount of grant payments payable under this chapter shall not exceed \$200 million and shall be calculated in accordance with the memorandum of understanding. The memorandum of understanding shall contain criteria for the average annual wages paid for the new full-time jobs to qualify for a grant payment, and contain other criteria for a new full-time job to qualify for a grant payment. The memorandum of understanding shall contain restrictions on the maximum aggregate amount of grant payments that may be paid to the qualified company through any fiscal year as follows:

- \$200 million through fiscal year 2024;
- \$300 million through fiscal year 2025;
- \$350 million through fiscal year 2026;
- \$400 million through fiscal year 2027;
- \$450 million through fiscal year 2028;
- \$500 million through fiscal year 2029;
- \$550 million through fiscal year 2030;
- \$600 million through fiscal year 2031;
- \$650 million through fiscal year 2032;
- \$700 million through fiscal year 2033; and
- \$750 million through fiscal year 2034 and later fiscal years.

E. A qualified company applying for a grant payment pursuant to this chapter 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 date of the application and (ii) the average annual wage paid for those new full-time jobs. Similar evidence shall be provided each year until the new full-time jobs become new full-time jobs that qualify for a grant payment. 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 of each year following the end of the calendar year upon which the evidence set forth is based. Failure to meet the filing deadline shall result in a deferral of a scheduled grant payment. For filings by mail, the postmark cancellation shall govern the date of the filing determination.

F. Within 60 days of receiving the application and evidence pursuant to subsection E, the Secretary shall certify to the Comptroller and the qualified company the verification of the information contained in the application and the resulting amount of the grant payments to which the qualified company may be entitled for payment. Such grant payments shall be made by check or electronic payment issued by the State Treasurer on warrant of the Comptroller in the Commonwealth's fourth or later fiscal year following the submission of such application, as provided in the memorandum of understanding. The Comptroller shall not draw any warrants to issue checks or electronic payments for grant payments under this chapter without a specific appropriation for the same.

G. As a condition for the receipt of a grant payment, a qualified company shall make available for inspection to the Secretary, upon request, all documents relevant and applicable to determining whether the qualified company has met the requirements for the receipt of a grant payment as set forth in this chapter and subject to the memorandum of understanding.