

# VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

## CHAPTER 758

*An Act to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 22.14, consisting of sections numbered 59.1-284.33, 59.1-284.34, and 59.1-284.35, relating to pharmaceutical manufacturing grant program.*

[S 610]

Approved April 6, 2020

**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 22.14, consisting of sections numbered 59.1-284.33, 59.1-284.34, and 59.1-284.35, as follows:**

### *CHAPTER 22.14.*

#### *PHARMACEUTICAL MANUFACTURING GRANT PROGRAM.*

##### **§ 59.1-284.33. Definitions.**

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

*"Capital investment" means an expenditure by or on behalf of a qualified company on or after March 1, 2019, in real property, tangible personal property, or both, at a facility in an eligible county that is properly chargeable to a capital account or would be so chargeable with a proper election. The purchase or lease of furniture; fixtures; business personal property; machinery and tools, including under an operating lease; and expected building expansion and up-fit by or on behalf of a qualified company shall qualify as capital investment.*

*"Eligible county" means Rockingham County.*

*"Facility" means the building, group of buildings, or corporate campus, including any related machinery and tools, furniture, fixtures, and business personal property, that is located at or near a qualified company's existing operations in an eligible county and is owned, leased, licensed, occupied, or otherwise operated by a qualified company for use in the administration, management, and operation of its business.*

*"Fund" means the Pharmaceutical Manufacturing Grant Fund.*

*"Grants" means grants from the Fund awarded to a qualified company in an aggregate not to exceed \$7.5 million, intended to be used to pay or reimburse a qualified company for the costs of workforce recruitment, development, and training, and for stormwater management. A qualified company may use the grant payment for any lawful purpose.*

*"Memorandum of understanding" means a performance agreement or related document entered into on or before August 1, 2020, by a qualified company, the Commonwealth, and VEDP, that sets forth the requirements for capital investment and the creation of new full-time jobs by a qualified company in order for a qualified company to be eligible for grants from the Fund.*

*"New full-time job" means a job position, in which the employee of a qualified company works at a facility, for which the average annual wage is at least \$100,000 and the qualified company provides standard fringe benefits. Such position shall require a minimum of either (i) 35 hours of an employee's time per week for the entire normal year of the qualified company's operations, which "normal year" shall 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. "New full-time job" shall not include any existing full-time positions at the facility as of March 1, 2019. The Commonwealth may gauge compliance with the new full-time job requirements for a qualified company by reference to the new payroll generated by a qualified company, as indicated in the memorandum of understanding.*

*"Qualified company" means a company, including its affiliates, that engages in pharmaceutical manufacturing in an eligible county and that, between March 1, 2019, and February 28, 2025, is expected to make (i) a capital investment of at least \$1 billion and (ii) create at least 152 new full-time jobs related to, or supportive of, its business.*

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

*"VEDP" means the Virginia Economic Development Partnership Authority.*

##### **§ 59.1-284.34. Pharmaceutical Manufacturing Grant Fund created.**

*A. There is hereby created in the state treasury a special nonreverting fund to be known as the Pharmaceutical Manufacturing Grant Fund. The Fund shall be established on the books of the Comptroller. All funds appropriated to the 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 to pay grants pursuant to this section. Expenditures and disbursements from the Fund shall be made by the State*

*Treasurer on warrants issued by the Comptroller pursuant to subsection E.*

*B. A qualified company shall be eligible to receive grants each fiscal year beginning with the Commonwealth's fiscal year starting on July 1, 2020, and ending with the Commonwealth's fiscal year starting on July 1, 2022, unless such timeframe is extended in accordance with a memorandum of understanding. Grants paid pursuant to this section shall be subject to appropriation by the General Assembly during each such fiscal year and are contingent on a qualified company meeting the requirements set forth in this chapter and the memorandum of understanding for the number of new full-time jobs created and maintained and the amount of capital investment made. The first grant payment of \$2.5 million shall not be awarded until a qualified company has made a capital investment of at least \$420 million and has created at least 85 new full-time jobs.*

*C. The aggregate amount of grants payable under this section shall not exceed \$7.5 million and such grants are expected to be paid in three annual installments of \$2.5 million each, calculated in accordance with a memorandum of understanding as follows:*

- 1. \$2.5 million for the Commonwealth's fiscal year beginning July 1, 2020;*
- 2. \$2.5 million for the Commonwealth's fiscal year beginning July 1, 2021; and*
- 3. \$2.5 million for the Commonwealth's fiscal year beginning July 1, 2022.*

*D. A qualified company applying for a grant installment 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 February in the fiscal year that immediately precedes the fiscal year in which the grant installment is to be paid and (ii) the aggregate amount of capital investment made as of the last day of February in the fiscal year that immediately precedes 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 a memorandum of understanding no later than June 1 each year reflecting performance through the last day of the prior February. Failure to meet the filing deadline shall result in a deferral of a scheduled grant installment payment set forth in subsection C. For filings by mail, the postmark cancellation shall govern the date of the filing determination.*

*E. Within 60 days of receiving an application and evidence pursuant to subsection D, the Secretary shall certify to the Comptroller and the qualified company the amount of grants to which such qualified company is entitled for payment. 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 an application. The Comptroller shall not draw any warrant to issue checks for grants without a specific appropriation for the same.*

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

***§ 59.1-284.35. Resources for public institutions of higher education.***

*A. To support the needs of a qualified company, and other manufacturers and companies engaged in research and development in and near a qualified county, up to \$2,525,000 shall be made available to a comprehensive community college and a baccalaureate public institution of higher education in or near an eligible county. Subject to appropriation, such funds are expected to be available in the Commonwealth's fiscal years beginning July 1, 2020, through July 1, 2024, as follows:*

- 1. \$730,000 for the Commonwealth's fiscal year beginning July 1, 2020;*
- 2. \$493,750 for the Commonwealth's fiscal year beginning July 1, 2021;*
- 3. \$493,750 for the Commonwealth's fiscal year beginning July 1, 2022;*
- 4. \$493,750 for the Commonwealth's fiscal year beginning July 1, 2023; and*
- 5. \$313,750 for the Commonwealth's fiscal year beginning July 1, 2024.*

*B. Funds awarded pursuant to this section shall be used for (i) enhanced soft-skilled training; (ii) collaboration to ensure an effective workforce development program; (iii) equipment, maintenance, and personnel needs for bioscience training and education; and (iv) increased educational opportunities in science, technology, engineering, and math.*

*C. Decisions regarding the application and awarding of funds shall be determined annually by the Secretary of Commerce and Trade, upon the recommendation of the President and Chief Executive Officer of VEDP, the Chancellor of the Virginia Community College System or his designee, and the Director of the State Council of Higher Education for Virginia or his designee. Such officials may request from applicant institutions, and base decisions upon, annual reports from such institutions setting forth proposals regarding how such funds would be spent and reviewing how awarded funds have been spent.*