

VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

CHAPTER 763

An Act to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 22.14, consisting of a section numbered 59.1-284.33, relating to creation of the Advanced Production Grant Program and Fund.

[S 1014]

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 a section numbered 59.1-284.33, as follows:

CHAPTER 22.14.

ADVANCED PRODUCTION GRANT PROGRAM AND FUND.

§ 59.1-284.33. Advanced Production Grant Program and Fund.

A. As used in this section:

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

"Eligible county" means the County of Pittsylvania.

"Facility" means an advanced production and development facility to be purchased, equipped, improved, and operated by the qualified company in the eligible county.

"Fund" means the Advanced Production Grant Fund created under subsection B.

"Grants" means grants from the Advanced Production Grant Fund awarded to a qualified company in an aggregate amount not to exceed \$7.0 million. A qualified company may use the proceeds of the grants for any lawful purpose.

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

"New full-time job" means a job position in which the employee of the qualified company works at the facility and for which the average annual wage is at least equal to \$34,274, the qualified company provides standard fringe benefits, and the position requires 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" must consist of at least 48 weeks, or (ii) 1,680 hours per year. Seasonal or temporary positions, positions created when a job function is shifted from an existing location in the Commonwealth, and positions with construction contractors, vendors, suppliers, and similar multiplier or spin-off jobs shall not qualify as new full-time jobs. The Commonwealth may gauge compliance with the new full-time jobs requirements for a qualified company by reference to the new payroll generated by a qualified company, as indicated in a memorandum of understanding.

"Qualified company" means a business transportation manufacturer and producer, including its affiliates, that engages in the production of business trucks in the eligible county, that between October 1, 2019, and December 31, 2027, is expected (i) to make or cause to be made a capital investment at a facility of at least \$57,837,356 and (ii) to create at least 703 new full-time jobs at the facility 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.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Advanced Production Grant Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for the Fund shall be paid into the state treasury and credited to it. 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 for the purpose to pay grants 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 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 time frame is extended in accordance with the memorandum of understanding. The grants under this section shall be paid to a 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 and retained. The first grant installment of \$500,000 shall not be awarded until the qualified company has made a capital investment of at least \$40,800,000 and has created at least 373 new full-time jobs at the facility.

D. The aggregate amount of grants payable under this section shall not exceed \$7.0 million, and grants are expected to be paid in six annual installments, calculated in accordance with the memorandum of understanding, with the grants that may be awarded in a particular fiscal year not exceeding the following:

1. \$500,000 for the Commonwealth's fiscal year beginning July 1, 2021;
2. \$1,800,000, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, 2022;
3. \$3,100,000, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, 2023;
4. \$4,400,000, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, 2024;
5. \$5,700,000, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, 2025; and
6. \$7,000,000, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, 2026.

E. 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 in place in the calendar year that immediately precedes the expected date on 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 expected date on 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 reflecting performance in and through the prior calendar year. 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 60 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. Payment of such grants shall be made by check issued by the State Treasurer on warrant of the Comptroller by the September 1 succeeding the submission of such timely filed 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 to the Secretary for inspection, upon request, all documents relevant and applicable to determining whether the qualified company has met the requirements for the receipt of grants 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.