

VIRGINIA ACTS OF ASSEMBLY -- 2021 SPECIAL SESSION I

CHAPTER 185

An Act to amend and reenact §§ 3.2-303, 3.2-304, and 3.2-310 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 3.1 of Title 3.2 a section numbered 3.2-311, relating to Local Food and Farming Infrastructure Grant Program.

[H 2068]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.2-303, 3.2-304, and 3.2-310 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 3.1 of Title 3.2 a section numbered 3.2-311 as follows:

§ 3.2-303. Definitions.

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

"Agricultural products" means crops, livestock, and livestock products, including field crops, fruits, vegetables, horticultural specialties, cattle, sheep, hogs, goats, horses, poultry, fur-bearing animals, milk, eggs, aquaculture, commercially harvested wild fish, commercially harvested wild shellfish, and furs.

"Agriculture and forestry processing/value-added facilities" means any for-profit or nonprofit business that creates value-added agricultural or forestal products.

"Food hub" means a business or organization that actively manages the aggregation, distribution, and marketing of food products primarily from local and regional producers to strengthen such producers' ability to satisfy wholesale, retail, and institutional demand.

"Forestal products" means saw timber, pulpwood, posts, firewood, Christmas trees, and other tree and wood products for sale or for farm use.

"Fund" means the Governor's Agriculture and Forestry Industries Development Fund established pursuant to § 3.2-304.

"Local Grant Program" means the Local Food and Farming Infrastructure Grant Program established pursuant to § 3.2-311.

"New job" means employment of an indefinite duration, created as the direct result of the private investment, for which the firm pays the wages and standard fringe benefits for its employee, requiring a minimum of either (i) 35 hours of the employee's time a week for the entire normal year of the firm's operations, which "normal year" shall 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 to the location of the economic development project, positions with suppliers, and multiplier or spin-off jobs shall not qualify as new jobs. The term "new job" shall include positions with contractors provided that all requirements included within the definition of the term are met.

"Planning Grant Program" means the Agriculture and Forestry Industries Development Planning Grant Program established pursuant to § 3.2-310.

"Prevailing average wage" means that amount determined by the Virginia Employment Commission to be the average wage paid workers in the city or county of the Commonwealth where the economic development project is located. The prevailing average wage shall be determined without regard to any fringe benefits.

"Private investment" means the private investment required under this chapter.

"Program" means the Agriculture and Forestry Industries Development Planning Grant Program established pursuant to § 3.2-310.

"Value-added agricultural or forestal products" means any agricultural or forestal product that (i) has undergone a change in physical state; (ii) was produced in a manner that enhances the value of the agricultural commodity or product; (iii) is physically segregated in a manner that results in the enhancement of the value of the agricultural or forestal product; (iv) is a source of renewable energy; or (v) is aggregated and marketed as a locally produced agricultural or forestal product.

§ 3.2-304. Governor's Agriculture and Forestry Industries Development Fund established; purpose; use of funds.

A. There is hereby created in the state treasury a nonreverting fund to be known as the Governor's Agriculture and Forestry Industries Development Fund (the Fund) to be used by the Governor to attract new and expanding agriculture and forestry ~~processing/value-added~~ *processing or value-added* facilities using Virginia-grown products. The Fund shall consist of any funds appropriated to it by the general appropriation act and revenue from any other source, public or private. The Fund shall be established on the books of the Comptroller, and any funds remaining in the Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on the Fund shall be credited to the Fund. Expenditures and disbursements from the Fund shall be made by the State Treasurer on

warrants issued by the Comptroller. The Governor shall report to the Chairmen of the House Committees on Appropriations and Finance and the Senate Committee on Finance as funds are awarded in accordance with this chapter.

B. Funds shall be awarded from the Fund by the Governor as grants or loans to political subdivisions. The criteria for making such grants or loans shall include (i) number of jobs expected to be created, (ii) anticipated amount of private capital investment, (iii) additional state tax revenue expected to accrue to the state and affected localities as a result of the capital investment and jobs created, (iv) anticipated amount of Virginia-grown agricultural and forestal products used by the project, (v) projected impact on agricultural and forestal producers, (vi) a return on investment analysis to determine the appropriate size of any grant or loan, and (vii) an analysis of the impact on competing businesses already located in the area.

C. Funds may be used for public and private utility extension or capacity development on and off site; public and private installation, extension, or capacity development of high-speed or broadband Internet access, whether on or off site; road, rail, or other transportation access costs beyond the funding capability of existing programs; site acquisition; grading, drainage, paving, and any other activity required to prepare a site for construction; construction or build-out of publicly or privately owned buildings; training; or grants or loans to an industrial development authority, housing and redevelopment authority, or other political subdivision for purposes directly relating to any of the foregoing. However, in no case shall funds from the Fund be used, directly or indirectly, to pay or guarantee the payment for any rental, lease, license, or other contractual right to the use of any property.

D. Funds may be used for grants to political subdivisions through the Agriculture and Forestry Industries Development Planning Grant Program pursuant to § 3.2-310.

E. Moneys in the Fund shall not be used for any economic development project in which a business relocates or expands its operations in one or more Virginia localities and simultaneously closes its operations or substantially reduces the number of its employees in another Virginia locality. The Secretary of Agriculture and Forestry shall enforce this policy and for any exception thereto shall promptly provide written notice to the Chairmen of the Senate Finance and House Appropriations Committees, which notice shall include a justification for any exception to such policy.

F. The Governor shall provide grants and commitments from the Fund in an amount not to exceed the dollar amount contained in the Fund. If the Governor commits funds for years beyond the fiscal years covered under the existing appropriation act, the State Treasurer shall set aside and reserve the funds the Governor has committed, and the funds shall remain in the Fund for those future fiscal years. No grant shall be payable in the years beyond the existing appropriation act unless the funds are currently available in the Fund.

§ 3.2-310. Agriculture and Forestry Industries Development Planning Grant Program.

A. The Governor may award grants from the Fund for the Agriculture and Forestry Industries Development Planning Grant Program to encourage efforts by political subdivisions to support agriculture and forestry.

B. Any funds awarded by the Governor pursuant to this section shall be awarded as reimbursable grants to political subdivisions.

C. The Secretary of Agriculture and Forestry shall develop guidelines for the *Planning Grant* Program and administer the Program on behalf of the Governor. Such guidelines shall (i) include a requirement that any political subdivision applying for a grant provide matching funds and (ii) state the criteria the Governor will use in evaluating any grant application submitted pursuant to this section. Such guidelines may (a) allow contributions to a project by certain specified entities, such as a nonprofit organization or charitable foundation, to count as eligible local matching funds and (b) accept a reduced match requirement for an economically distressed locality applying for an award.

§ 3.2-311. Local Food and Farming Infrastructure Grant Program.

A. *The Governor may award grants from the Fund for the Local Food and Farming Infrastructure Grant Program to encourage efforts by political subdivisions to support agriculture and forestry.*

B. *Any funds awarded by the Governor pursuant to this section shall be awarded as reimbursable grants of no more than \$25,000 per grant to political subdivisions to support community infrastructure development projects that support local food production and sustainable agriculture.*

C. *The Secretary of Agriculture and Forestry shall develop guidelines for the Local Grant Program and administer the Local Grant Program on behalf of the Governor. Such guidelines shall (i) include a requirement that any political subdivision applying for a grant provide matching funds, (ii) require that grants be awarded on a competitive basis, and (iii) state the criteria the Governor will use in evaluating any grant application submitted pursuant to this section. Such guidelines shall favor projects that establish or maintain (a) farmers markets pursuant to Chapter 35 (§ 3.2-3500 et seq.); (b) food hubs; or (c) processing facilities that are primarily locally owned, including commercial kitchens, packaging and labeling facilities, animal slaughtering facilities, or other facilities, and that are primarily utilized for the processing of meats, dairy products, produce, or other products. Such guidelines shall favor projects that create infrastructure in proximity to small-scale agricultural producers.*

D. *The guidelines developed pursuant to subsection C may (i) allow contributions to a project by*

certain specified entities, such as a nonprofit organization or charitable foundation, to count as eligible local matching funds and (ii) accept a reduced match requirement for an economically distressed locality applying for an award.