

VIRGINIA ACTS OF ASSEMBLY -- 2021 SPECIAL SESSION I

CHAPTER 271

An Act to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 22.17, consisting of a section numbered 59.1-284.38, relating to creation of the Technology Development Grant Fund.

[S 1156]

Approved March 18, 2021

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 22.17, consisting of a section numbered 59.1-284.38, as follows:

CHAPTER 22.17.

TECHNOLOGY DEVELOPMENT GRANT FUND.

§ 59.1-284.38. Technology Development Grant Fund.

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

"Capital investment" means an expenditure by or on behalf of a qualified company on or after January 1, 2020, in real property, tangible personal property, or both, at a facility located 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 machinery and tools, furniture, fixtures, and business personal property, including under an operating lease, and expected building expansion and up-fit by or on behalf of the qualified company shall qualify as capital investment.

"Eligible county" means Fairfax County.

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

"Fund" means the Technology Development Grant Fund.

"Grants" means grants from the Fund awarded to a qualified company in an aggregate amount not to exceed \$22.5 million.

"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, for which the standard fringe benefits are provided by the company and for which the average annual wage is at least \$112,215. Each 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, positions created when a job function is shifted from an existing location in the Commonwealth, unless the position in the existing location is backfilled, 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 requirement for a qualified company by reference to the new payroll generated by the qualified company, as indicated in the memorandum of understanding.

"Qualified company" means a technology company, including its affiliates, that between January 1, 2020, and June 30, 2025, is expected to (i) make a capital investment at a facility of at least \$64 million and (ii) create at least 1,500 new full-time jobs at the facility related to, or supportive of, its business.

"Secretary" means the Secretary of Commerce and Trade.

"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 Technology Development 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 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 timeframe is extended in accordance with the memorandum of understanding. Grants 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. The first grant installment of \$5,625,000 shall not be awarded until the qualified company has made a capital investment of at least \$19,260,000 and has created at least 500 new full-time jobs.

D. The aggregate amount of grants payable under this section shall not exceed \$22.5 million, and grants are expected to be paid in four annual installments of \$5,625,000 each, calculated in accordance with the memorandum of understanding as follows:

1. \$5,625,000 for the Commonwealth's fiscal year beginning July 1, 2021;
2. \$5,625,000 for the Commonwealth's fiscal year beginning July 1, 2022;
3. \$5,625,000 for the Commonwealth's fiscal year beginning July 1, 2023; and
4. \$5,625,000 for the Commonwealth's fiscal year beginning July 1, 2024.

E. A qualified company applying for a grant installment pursuant to this chapter shall provide evidence, satisfactory to the Secretary, of (i) the aggregate number of new full-time jobs created and maintained in the calendar year that immediately precedes the beginning of the fiscal year in which the grant installment is to be paid; (ii) the aggregate number of existing jobs maintained in certain other facilities operated by the qualified company in the calendar year that immediately precedes the beginning of the fiscal year in which the grant installment is to be paid; and (iii) the aggregate amount of the capital investment made through 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 of each year, reflecting performance through the prior December 31. Failure to meet the filing deadline shall result in a deferral of a scheduled grant installment 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 the qualified company is entitled for payment. Such grants shall be paid by the State Treasurer on warrant of the Comptroller in the Commonwealth's fiscal year following submission of such application. The Comptroller shall not draw any warrants for payment of grants pursuant to this chapter 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 receipt of grants as set forth in this chapter and subject to the memorandum of understanding. All such documents appropriately identified by the qualified company shall be considered confidential and proprietary.