

VIRGINIA ACTS OF ASSEMBLY -- 2021 SPECIAL SESSION I

CHAPTER 434

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 Shipping and Logistics Headquarters Grant Program.

[H 5001]

Approved March 30, 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.

SHIPPING AND LOGISTICS HEADQUARTERS GRANT PROGRAM.

§ 59.1-284.38. Shipping and Logistics Headquarters Grant Program.

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

"Capital investment" means an expenditure within an eligible locality, by or on behalf of a qualified company on or after January 1, 2021, in real property, tangible personal property, or both, at one of the facilities within an eligible locality that has been capitalized or is subject to being capitalized. "Capital investment" may include (i) the purchase of land and buildings and the cost of infrastructure development and land improvements; (ii) a capital expenditure related to a leasehold interest in real property; and (iii) the purchase or lease of furniture, fixtures, machinery, and equipment, including under an operating lease.

"Eligible locality" means the City of Chesapeake, the City of Norfolk, or the County of Arlington.

"Facilities" means the buildings, group of buildings, or campus, including any related furniture, fixtures, equipment, and business personal property, in an eligible locality that is owned, leased, licensed, occupied, or otherwise operated by or on behalf of a qualified company for use as a headquarters facility, a customer care center, or a research and development innovation center in the furtherance of its shipping and logistics business.

"Fund" means the Shipping and Logistics Headquarters Grant Fund.

"Grant" means a grant from the Fund awarded to a qualified company in an aggregate amount of up to \$9.5 million. Grant proceeds are intended to be used by the qualified company to pay or reimburse costs associated with constructing, renovating, acquiring, and staffing the facilities.

"Memorandum of understanding" means a performance agreement or related document entered into on or before August 1, 2021, between a qualified company and the Commonwealth that sets forth the requirements for capital investment and the creation of new jobs for the qualified company.

"New job" means full-time employment at or associated with any of the facilities measured at any time after January 1, 2021, for which the annual average wage is at least \$56,713 for a position in the City of Norfolk or the City of Chesapeake or at least \$99,385 for a position in the County of Arlington, that requires a minimum of 38 hours of an employee's time per week for the entire normal year, consisting of at least 48 weeks, of the qualified company's operations. 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 jobs. Any new job shall be in addition to the baseline number of existing full-time positions at the qualified company's facilities, to be set forth in the memorandum of understanding.

"Qualified company" means a shipping and logistics company, and its affiliates, that between January 1, 2021, and December 31, 2030, is expected to (i) retain its North American headquarters operations in the City of Norfolk; (ii) make or cause to be made a capital investment at one or more of the facilities of at least \$36 million; (iii) create and maintain at least 415 new jobs at or associated with the facilities related to, or supportive of, its shipping and logistics business functions; and (iv) establish and operate a research and development innovation center.

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

B. There is hereby created in the state treasury a nonreverting fund to be known as the Shipping and Logistics Headquarters 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 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 to pay grant installments pursuant to this chapter. Payment of such grant installments shall be made by check issued by the State Treasurer on warrant of the Comptroller. The Comptroller shall not draw any warrants to issue checks for grant installments under this section without a specific appropriation for the same.

C. Subject to appropriation by the General Assembly, a qualified company shall be eligible to

receive grant installments of \$6.33 million in fiscal year 2022 and \$3.17 million in fiscal year 2023. Such grant installments shall be paid to the qualified company from the Fund during each such fiscal year, contingent upon the qualified company's meeting the requirements set forth in the memorandum of understanding to provide security for any potential repayment of the grant, including a cash escrow.

D. A qualified company receiving a grant installment pursuant to this section shall provide evidence, satisfactory to the Secretary, annually of, for each facility: (i) the aggregate number of new jobs created and maintained as of the last day of the calendar year, the payroll paid by the qualified company during the calendar year, and the average annual wage of the new jobs in the calendar year and (ii) the aggregate amount of the capital investment made during the calendar year, including the extent to which such capital investment was or was not subject to the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.). The report 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 following the end of the prior calendar year upon which the evidence is based.

E. The memorandum of understanding shall provide that if any annual report and evidence provided pursuant to subsection D indicates that the qualified company failed to meet certain targets for capital investment that is or is not subject to the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.), the average annual wage for new jobs, or the number of new jobs, the qualified company may be required to repay the Commonwealth a portion of the grant in an amount that reflects the value of the shortfall in the applicable target.

F. As a condition of receipt and retention of the grant, a qualified company shall make available to the Secretary for inspection all documents relevant and applicable to determining whether the qualified company has met the requirements for the receipt and retention of the grant as set forth herein and subject to the memorandum of understanding. All such documents appropriately identified by the qualified company shall be considered confidential and proprietary, and shall not be subject to disclosure pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).