

VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

CHAPTER 265

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 the Truck Manufacturing Grant Fund; creation.

[H 1361]

Approved March 10, 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.

TRUCK MANUFACTURING GRANT FUND.

§ 59.1-284.33. Truck Manufacturing Grant Fund.

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

"Capital investment" means an expenditure or an asset transfer from a site of a qualified company located outside of an eligible county to the facility, by or on behalf of the qualified company, on or after October 1, 2018, 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 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 a capital investment.

"Eligible county" means the County of Pulaski.

"Facility" means a truck manufacturing facility to be expanded, equipped, improved, or operated by a qualified company in an eligible county.

"Fund" means the Truck Manufacturing Grant Fund.

"Grants" means grants from the Fund awarded to a qualified company, in an aggregate not to exceed \$16.5 million, intended to be used to pay or reimburse a qualified company for costs related to construction and renovation of a facility. 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 investments 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 position the employee of a qualified company works at a facility, for which the average annual wage is at least equal to the wage required by the memorandum of understanding, and for which a 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 a 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. Other positions, including employees of affiliates and certain suppliers, may be considered new full-time jobs if designated as such in a memorandum of understanding. New full-time jobs shall be in addition to the baseline of 3,219 full-time employees at a facility. 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 set forth in a memorandum of understanding.

"Qualified company" means a truck manufacturer, including its affiliates, that engages in truck manufacturing in an eligible county, that between October 1, 2018, and September 30, 2029, is expected to (i) make or cause to be made a capital investment at a facility of at least \$397 million, which shall include at least \$93.6 million of investments related to the construction or renovation of real property at a facility, and (ii) create at least 777 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.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Truck 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 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 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 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, 2020, and ending with the Commonwealth's fiscal year starting on July 1, 2029, unless such timeframe is extended in accordance with a memorandum of understanding. Grants paid pursuant to this chapter shall be subject to appropriation by the General Assembly during each such fiscal year, and 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 related to the construction or renovation of a facility. The first grant installment of \$2 million shall not be awarded until a qualified company has made a capital investment related to the construction and renovation of a facility of at least \$46.8 million and has retained at least 2,700 full-time positions at the facility.

D. The aggregate amount of grants payable under this section shall not exceed \$16.5 million. Grants are expected to be paid in 10 annual installments, calculated in accordance with a memorandum of understanding, with the grants that may be awarded in a particular fiscal year not to exceed the following:

1. \$2,000,000 for the Commonwealth's fiscal year beginning July 1, 2020;
2. \$4,000,000, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, 2021;
3. \$4,300,000, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, 2022;
4. \$6,042,857, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, 2023;
5. \$7,785,714, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, 2024;
6. \$9,528,571, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, 2025;
7. \$11,271,428, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, 2026;
8. \$13,014,285, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, 2027;
9. \$14,757,142, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, 2028; and
10. \$16,500,000, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, 2029.

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 grant year that immediately precedes the expected date on which the grant installment is to be paid and (ii) the aggregate amount of capital investment, and the capital investment related to the construction and renovation of a facility, made as of the last day of the grant 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 a memorandum of understanding, by no later than October 31 of each year reflecting performance in and through the prior grant year. Failure to meet the filing deadline shall result in a deferral of a scheduled grant installment payment. For filings by mail, the postmark cancellation shall govern the date of the filing determination.

F. Within 30 days of receiving an 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 grant shall be made by check issued by the State Treasurer on warrant of the Comptroller by the end of the calendar year of the submission of the application and evidence. The Comptroller shall not draw any warrant to issue checks for grants under this chapter without a specific appropriation for the same.

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