

VIRGINIA ACTS OF ASSEMBLY -- 2024 SESSION

CHAPTER 563

An Act to amend and reenact §§ 2.2-5101 and 2.2-5102.1 of the Code of Virginia, relating to Virginia investment performance grants; Virginia economic development incentive grants.

[H 1457]

Approved April 5, 2024

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-5101 and 2.2-5102.1 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-5101. Virginia investment performance grants.

A. For purposes of this section, "Grant" means a Virginia Investment Performance Grant awarded pursuant to this section and paid from the Investment Performance Grant subfund of the Fund.

B. Subject to the appropriation by the General Assembly of sufficient moneys to the Investment Performance Grant subfund, any eligible manufacturer or research and development service that is not eligible for a major eligible employer grant under § 2.2-5102 shall be eligible to apply for an investment performance grant as provided in this section a Grant.

B. C. The Partnership shall establish an application process by which eligible manufacturers and research and development services may apply for a grant under this section Grant. An application for a grant under this section Grant payment shall not be approved until the Partnership has verified that the required capital investment, and if applicable, job creation, has been completed.

C. D. The amount of the investment performance grant Grant that an eligible manufacturer or research and development service shall be eligible to receive under this section shall be determined by the Secretary, based on the recommendation of the Partnership, and contingent upon approval by the Governor. The determination of the appropriate amount of an investment performance grant a Grant shall be based on the application of guidelines that establish criteria for correlating the amount of a grant Grant to the relative value to the Commonwealth of the eligible investment. For the purpose of any Grant award determination that includes a job creation requirement, the eligible manufacturer or research and development service shall pay an average wage, excluding fringe benefits, that is no less than the prevailing average wage for such new jobs.

D. E. The Partnership shall assist the Secretary in developing objective guidelines that shall to be used in awarding investment performance grants Grants. No grant Grant shall be awarded until the Secretary has provided copies of such guidelines for review to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations. The preparation of the guidelines shall be exempt from the requirements of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act. The guidelines shall require determinations regarding the amount of investment performance grants Grants to address:

- 1. The number of new jobs, if any, created by the capital investment;*
- 2. The average wages paid for the new jobs and the amount by which such wages exceed the average manufacturing wage for prevailing average wage of the locality or region;*
- 3. The extent to which the capital investment produces (i) measurable increases in capacity, productivity, or both; (ii) measurable decreases in the production of flawed product; or (iii) measurable advances in knowledge, research, or the application of research findings for the creation of new or significantly improved products or processes that support manufacturing;*
- 4. The amount of the capital investment;*
- 5. The net present value of benefits to Virginia;*
- 6. The amount of other incentives offered by the Commonwealth and the locality; and*
- 7. The importance of the manufacturing or research and development facility to the economy of the locality or region.*

The guidelines shall also address the eligibility of manufacturers or research and development services that make a capital investment in phases over a period of years, and limits on eligibility for multiple grants Grants by the same manufacturer or research and development service within stated periods of time.

E. The amount of an investment performance grant to any eligible manufacturer under this section shall not exceed \$3 million or 10 percent of the amount appropriated by the General Assembly to the Investment Performance Grant subfund in the year that the terms of a grant are determined. For all eligible projects awarded grants on or after July 1, 2005, and before July 1, 2009, the amount of an investment performance grant to any recipient under this section shall not exceed \$1.5 million. For eligible projects awarded grants on or after July 1, 2009, the amount of an investment performance grant to any recipient under this section shall not exceed \$3 million, except for eligible projects that demonstrate extraordinary characteristics described in guidelines implementing this chapter the amount of

an investment performance grant to any such recipient under this section shall not exceed \$5 million.

F. For all eligible projects awarded grants before July 1, 2005, the aggregate amount of investment performance grants approved under this section in any year shall not exceed \$6 million, and the aggregate amount of grants outstanding to all eligible manufacturers under this section for all years shall at no time exceed \$30 million. For all such grants awarded prior to that date, the annual obligations of the Commonwealth to make grant payments to individual eligible manufacturers under this section shall not exceed \$600,000. For all eligible projects awarded grants on or after July 1, 2005, and before July 1, 2009, the aggregate amount of investment performance grants approved under this section in any year shall not exceed \$3 million, and the aggregate amount of such grants awarded after that date and outstanding at any time shall not exceed \$15 million. For all such grants awarded on or after that date, the annual obligations of the Commonwealth to make grant payments to individual recipients under this section shall not exceed \$300,000. For all eligible projects awarded grants on or after July 1, 2009, and before July 1, 2015, the aggregate amount of investment performance grants approved under this section in any year shall not exceed \$6 million, and the aggregate amount of such grants awarded on or after July 1, 2009, and before July 1, 2015, and outstanding at any time shall not exceed \$30 million. For all such grants awarded on or after July 1, 2009, and before July 1, 2015, the annual obligations of the Commonwealth to make grant payments to individual recipients under this section shall not exceed \$1 million. For all eligible projects awarded grants on or after July 1, 2015, but before July 1, 2019, the aggregate amount of investment performance grants approved under this section in any year shall not exceed \$6 million, and the aggregate amount of such grants awarded on or after July 1, 2015, but before July 1, 2019, and outstanding at any time shall not exceed \$20 million. For all such grants awarded on or after July 1, 2015, but before July 1, 2019, the annual obligations of the Commonwealth to make grant payments to individual recipients under this section shall not exceed \$1 million. For all eligible projects awarded grants on or after July 1, 2019, the aggregate amount of investment performance grants approved under this section in any year shall not exceed \$4 million, and the aggregate amount of such grants awarded on or after July 1, 2019, and outstanding at any time shall not exceed \$20 million. For all such grants awarded on or after July 1, 2019, the annual obligations of the Commonwealth to make grant payments to individual recipients under this section shall not exceed \$1 million. *At no time shall the aggregate amount of Grants payable in any fiscal year exceed \$7 million.*

G. Any eligible manufacturer or research and development service shall be eligible to receive a grant from the Fund Grant in five equal, *annual* installments beginning in the *third first* year after *completion and verification* of the capital investment is completed and the Partnership has verified that the requirements applicable to such grant have been satisfied. Any eligible manufacturer or research and development service located in a fiscally distressed area of the State, as defined in the guidelines implementing this chapter, shall be eligible to begin receiving grants in the second year after the capital investment is completed and verified and any pledged employment. *No Grant awarded pursuant to this section to an eligible manufacturer or research and development service shall exceed \$5 million in total, and no annual payment to any eligible manufacturer or research and development service shall exceed \$1 million.*

§ 2.2-5102.1. Virginia economic development incentive grants.

A. Subject to the appropriation by the General Assembly of sufficient moneys to the Economic Development Incentive Grant subfund, any eligible company that meets the requirements of this section and is not awarded a grant under § 2.2-5101 or 2.2-5102 for the same project shall be eligible to apply for an economic development incentive grant as provided in this section.

B. The Partnership shall establish an application process by which eligible companies may apply for a grant under this section. An application for a grant under this section shall not be approved for payment until the Partnership has verified that the applicable requirements of the memorandum of agreement have been satisfied.

C. The amount of the economic development incentive grant that an eligible company may receive under this section shall be determined at the sole discretion of the Governor based on the recommendation of the Secretary. The determination of the appropriate amount for an economic development incentive grant shall be based on the application of guidelines that establish criteria for correlating the amount of a grant to the relative value to the Commonwealth of the new investment and employment.

D. The Partnership shall assist the Secretary in developing objective guidelines that shall be used in awarding economic development incentive grants. No grant shall be awarded until the Secretary has provided copies of such guidelines for review to the chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations. The preparation of the guidelines shall be exempt from the requirements of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act (§ 2.2-4000 et seq.). The guidelines shall require determinations regarding the amount of investment performance grants to address:

1. The number of new jobs created by the capital investment;
2. The wages paid for the new jobs and the amount by which wages exceed the average wage for the locality or region;

3. The amount of the capital investment;
4. The net present value of benefits to Virginia;
5. The amount of other incentives offered by the Commonwealth and the locality; and
6. The importance of the facility to the economy of the locality or region.

The guidelines shall also address the eligibility of companies that make a capital investment in phases over a period of years, and limits on eligibility for multiple grants by the same company within stated periods of time.

E. For eligible projects awarded grants prior to July 1, 2010, the aggregate amount of economic development incentive grants payable under this section in any fiscal year shall not exceed \$6 million, and the aggregate amount of such grants outstanding that were awarded prior to July 1, 2010, shall not exceed \$30 million. For eligible projects awarded grants on or after July 1, 2010, but before July 1, 2019, the aggregate amount of economic development incentive grants payable under this section in any fiscal year shall not exceed \$6 million and the aggregate amount of such grants outstanding on or after July 1, 2010, but before July 1, 2019, shall not exceed \$30 million. For eligible projects awarded grants on or after July 1, 2019, the aggregate amount of economic development incentive grants payable under this section in any fiscal year shall not exceed \$6 million and the aggregate amount of such grants outstanding on or after July 1, 2019, shall not exceed \$30 million.

F. Any eligible company shall be eligible to receive a grant from the Fund in no fewer than five installments beginning in the ~~third~~ *first* year after the Partnership has verified that the requirements applicable to such grant have been satisfied. All such terms shall be negotiated and set forth in a memorandum of agreement.

G. The Comptroller shall not draw any warrants to issue checks for grants under this chapter without a specific legislative appropriation as specified in conditions and restrictions on expenditures in the appropriation act. The payment of any grant under this section shall be in accordance with the terms and conditions set forth in a memorandum of agreement between a major eligible employer and the Commonwealth. These terms and conditions shall supplement the provisions of this chapter and shall include but not be limited to the terms of the payment of the grant. The payment of the grant shall be made in full or in proportion to a major eligible employer's fulfillment of the terms of the memorandum of agreement.

2. That no provision of this act shall impact the obligations of the Commonwealth under any existing agreements for the payments of grants issued pursuant to § 2.2-5101 of the Code of Virginia entered into prior to the effective date of this act.

3. That the aggregate amount of grants payable in a fiscal year pursuant to subsection F of § 2.2-5101 of the Code of Virginia, as amended by this act, shall include all grants payable in such fiscal year, regardless of whether such grants were awarded prior to July 1, 2024, or on or after July 1, 2024.