

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 2.2-5101 of the Code of Virginia, relating to Virginia Investment Performance Grants.

[S 1231]

Approved

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-5101 of the Code of Virginia is 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 not eligible for a major eligible employer grant under § 2.2-5102 shall be eligible to apply for a Grant.

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

D. 1. The amount of the Grant that an eligible manufacturer or research and development service shall be eligible to receive 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 a Grant shall be based on guidelines that establish criteria for correlating the amount of a 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.

2. *Notwithstanding the provisions of subdivision 1, in localities with (i) an annual unemployment rate for the most recent calendar year for which such data is available that is greater than the final statewide average unemployment rate for that calendar year and (ii) a poverty rate for the most recent calendar year for which such data is available that exceeds the statewide average poverty rate for that year, a grant or loan may be awarded from the Partnership pursuant to this section if the average wage paid by the eligible manufacturer or research and development service, excluding fringe benefits, is no less than 85 percent of the prevailing average wage.*

3. *For projects in localities described in subdivision 2, the Partnership may award a grant or loan for a project paying less than 85 percent of the prevailing average wage, but still providing customary employee benefits, only if the Governor has made a written finding that the economic circumstances in the area are sufficiently distressed such that assistance to the locality to attract the project is nonetheless justified. Sufficient distress may be based upon high unemployment, underemployment, or negative economic conditions in the locality. However, the minimum private investment and number of new jobs required to be created as set forth in this chapter shall still be a condition of eligibility for an award from the Fund. Such written finding shall promptly be provided to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations.*

E. The Partnership shall assist the Secretary in developing objective guidelines to be used in awarding 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. The guidelines shall require determinations regarding the amount of 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 prevailing average wage of the locality;

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

57 7. The importance of the manufacturing or research and development facility to the economy of the
58 locality or region.

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

62 F. At no time shall the aggregate amount of Grants payable in any fiscal year exceed \$7 million.

63 G. Any eligible manufacturer or research and development service shall be eligible to receive a Grant in
64 five equal, annual installments beginning in the first year after completion and verification of the capital
65 investment and any pledged employment. No Grant awarded pursuant to this section to an eligible
66 manufacturer or research and development service shall exceed \$5 million in total, and no annual payment to
67 any eligible manufacturer or research and development service shall exceed \$1 million.