

§ 62.1-132.3:2.2. Economic and Infrastructure Development Grant Program

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

"Fund" means the Port of Virginia Economic Development Grant Fund established by § 62.1-132.3:2.1.

"New, permanent full-time position" means a job of an indefinite duration, created by a qualified company as a result of operations within the Commonwealth, requiring a minimum of 35 hours of an employee's time per week for the entire normal year of the company's operations, which normal year shall consist of at least 48 weeks, or a position of indefinite duration that requires a minimum of 35 hours of an employee's time per week for the portion of the taxable year in which the employee was initially hired for the qualified company's location within the Commonwealth.

"New, permanent full-time position" includes security positions as required within a foreign trade zone, established pursuant to the Foreign Trade Zones Act of 1934, as amended (19 U.S.C. §§ 81a through 81u). "New, permanent full-time position" does not include seasonal or temporary positions, jobs created when a position is shifted from an existing location in the Commonwealth to the qualified company's new or expanded location, or positions in building and grounds maintenance or other positions that are ancillary to the principal activities performed by the employees at the qualified company's location within the Commonwealth.

"Qualified company" means a corporation, limited liability company, partnership, joint venture, or other business entity that (i) locates or expands a facility within the Commonwealth; (ii) creates at least 25 new, permanent full-time positions for qualified full-time employees at a facility within the Commonwealth during its first year of operation or during the year when the expansion occurs; (iii) is involved in maritime commerce or exports or imports manufactured goods through the Port of Virginia; (iv) is engaged in the distribution, freight forwarding, freight handling, goods processing, manufacturing, warehousing, crossdocking, transloading, or wholesaling of goods exported and imported through the Port of Virginia; ship building and ship repair; dredging; marine construction; or offshore energy exploration or extraction; and (v) pays a minimum entry-level wage rate per hour of at least 1.2 times the federal minimum wage or the Virginia minimum wage, as required by the Virginia Minimum Wage Act (§ 40.1-28.8 et seq.), whichever is higher. In areas that have an unemployment rate of one and one-half times the statewide average unemployment rate, the wage rate minimum may be waived by the Authority. Only full-time positions that qualify for benefits shall be eligible for assistance.

"Qualified full-time employee" means an employee filling a new, permanent full-time position in the qualified company's location within the Commonwealth. "Qualified full-time employee" does not include an employee (i) for whom a tax credit was previously earned pursuant to § 58.1-439 or 58.1-439.12:06 by a related party as listed in § 267(b) of the Internal Revenue Code or by a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal Revenue Code; (ii) who was previously employed in the same job function at an existing location in the Commonwealth by a related party as listed in § 267(b) of the Internal Revenue Code; or (iii) whose job function was previously performed at a different location in the

Commonwealth by an employee of a related party as listed in § 267(b) of the Internal Revenue Code or a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal Revenue Code.

B. The Port of Virginia shall develop as a component of the Port of Virginia Economic Development Program the Economic and Infrastructure Development Grant Program.

C. Beginning January 1, 2025, and subject to appropriation, any qualified company that locates or expands a facility within the Commonwealth shall be eligible to apply for a one-time grant from the Fund, in an amount determined as follows:

1. If the qualified company creates at least 25 new, permanent full-time positions for qualified full-time employees during its first year of operation or during the year in which the expansion occurs, \$1,000 per new, permanent full-time position;
2. If the qualified company creates at least 50 new, permanent full-time positions for qualified full-time employees during its first year of operation or during the year in which the expansion occurs, \$1,500 per new, permanent full-time position;
3. If the qualified company creates at least 75 new, permanent full-time positions for qualified full-time employees during its first year of operation or during the year in which the expansion occurs, \$2,000 per new, permanent full-time position; and
4. If the qualified company creates at least 100 new, permanent full-time positions for qualified full-time employees during its first year of operation or during the year in which the expansion occurs, \$3,000 per new, permanent full-time position.

E. To qualify for a grant pursuant to this section, a qualified company must apply for the grant not later than March 31 in the year immediately following the location or expansion of a facility within the Commonwealth pursuant to an application process developed by the Virginia Port Authority. Within 90 days after the filing deadline, the Executive Director shall certify to the Comptroller and the qualified company the amount of grant to which the qualified company is entitled under this section. Payment of each grant shall be made by check issued by the State Treasurer on warrant of the Comptroller within 60 days of such certification and in the order that each completed eligible application is received.

F. A qualified company that has received a grant in accordance with the requirements provided in this section shall be eligible for a second grant from the Fund if it (i) locates or expands an additional facility in a separate location, as determined by the Virginia Port Authority, within the Commonwealth; (ii) creates at least 300 new, permanent full-time positions at the additional facility over and above those agreed upon in the qualified company's original memorandum of understanding with the Virginia Port Authority; and (iii) increases cargo volumes through the Port of Virginia by at least five percent, not including any volume increase resulting from the original grant, from the additional facility. If the qualified company satisfies the requirements provided in this subsection and receives a grant consistent with the requirements of this section, then the qualified company shall enter into another separate memorandum of understanding with the Virginia Port Authority as provided in subsection G.

G. Prior to receipt of a grant, the qualified company shall enter into a memorandum of understanding with the Virginia Port Authority establishing the requirements for maintaining the number of new, permanent full-time positions for qualified employees at the qualified

company's location within the Commonwealth. If the number of new, permanent full-time positions for any of the three years immediately following receipt of a grant falls below the number of new, permanent full-time positions created during the year for which the grant is claimed, the amount of the grant shall be recalculated using the decreased number of new, permanent full-time positions, and the qualified company shall repay the difference.

H. No qualified company shall apply for a grant, nor shall one be awarded under this section to an otherwise qualified company, if (i) a credit pursuant to § 58.1-439 or 58.1-439.12:06 or a grant pursuant to § 62.1-132.3:2.3 is claimed for the same employees or for capital expenditures at the same facility by the qualified company, by a related party as listed in § 267(b) of the Internal Revenue Code, or by a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal Revenue Code or (ii) the qualified company was a party to a reorganization as defined in § 368(b) of the Internal Revenue Code, and any corporation involved in the reorganization as defined in § 368(a) of the Internal Revenue Code previously received a grant under this section for the same facility or operations.

I. The Virginia Port Authority, with the assistance of the Virginia Economic Development Partnership, shall develop guidelines establishing procedures and requirements for qualifying for the grant, including the affirmative determination that each applicant is a qualified company, as defined above, engaged in a port-related business. The guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.). For the purposes of administering this grant program, the Virginia Port Authority and the Department of Taxation shall exchange information regarding whether a qualified company, a related party as listed in § 267(b) of the Internal Revenue Code, or a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal Revenue Code has claimed a credit pursuant to § 58.1-439 or 58.1-439.12:06 or a grant pursuant to § 62.1-132.3:2.3 for the same employees or for capital expenditures at the same facility.

2023, cc. 238, 239.

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.