2012 Special Session I

Budget Bill - HB1301 (Chapter 3)

Item 4-15

ADDITIONAL ENACTMENTS

2. That no provision of this act shall be construed or interpreted to cause the expiration of any provision of Chapter 896 of the Acts of Assembly of 2007 pursuant to the 22nd enactment of such Chapter.

3. That the Code of Virginia is amended by adding section 62.1-132.3:2, relating to the Virginia Port Authority and promotion of the ports of Virginia, as follows:

A. From such funds as may be appropriated by the General Assembly and any gifts, grants, or donations from public or private sources, and any funds transferred at the request of the Executive Director from the Port Opportunity Fund created pursuant to § 62.1-132.3:1, there is hereby created in the state treasury a special nonreverting, permanent fund to be known as the Port of Virginia Economic and Infrastructure Development Zone Grant Fund (the Fund), to be administered by the Virginia Port Authority. The Fund shall be established on the books of the Comptroller. Any moneys remaining in the Fund at the end of each fiscal year, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund, which shall be in the form of grants, shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Executive Director. Moneys in the Fund shall be used solely for the purpose of grants to qualified applicants to the Port of Virginia Economic and Infrastructure Development Zone Grant Program.

B. The Virginia General Assembly does hereby designate the following localities to be part of the Port of Virginia Economic and Infrastructure Development Zone: the Counties of Brunswick, Chesterfield, Charles City, Clarke, Dinwiddie, Frederick, Gloucester, Greensville, Henrico, Hanover, Isle of Wight, James City, Mecklenburg, Montgomery, New Kent, Prince George, Southampton, Surry, Sussex, Warren, and York; and the Cities of Chesapeake, Colonial Heights, Emporia, Hampton, Hopewell, Newport News, Norfolk, Petersburg, Poquoson, Portsmouth, Richmond, Suffolk, Virginia Beach, Williamsburg, and Winchester.

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

“New, permanent full-time position” means a job of an indefinite duration, created by a qualified company as a result of operations within the Zone, 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 Zone. Seasonal or temporary positions, or jobs created when a position is shifted from an existing location in the Commonwealth to the qualified company's location within the Zone, and positions in building and grounds maintenance, security, and other positions that are ancillary to the principal activities performed by the employees at the qualified company's location within the Zone shall not qualify as new, permanent full-time positions.

“Qualified company” means a corporation, limited liability company, partnership, joint, venture, or other business entity that (i) locates or expands a facility within the Zone; (ii) creates at least 25 new, permanent full-

time positions for qualified full-time employees at a facility within the Zone during its first year of operation within the Zone 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; and (iv) is engaged in one or more of the following: 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.

"Qualified full-time employee" means an employee filling a new, permanent full-time position in the qualified company's location within the Zone. A "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 defined in § 267(b) of the Internal Revenue Code or by a trade or business under common control as defined in § 52(b) of the Internal Revenue Code; (ii) who was previously employed in the same job function at an existing location in Virginia by a related party as defined in § 267(b) of the Internal Revenue Code; or (iii) whose job function was previously performed at a different location in Virginia by an employee of a related party as defined in § 267(b) of the Internal Revenue Code or a trade or business under common control as defined in § 52(b) of the Internal Revenue Code.

"Zone" means the Port of Virginia Economic and Infrastructure Development Zone.

D. Beginning January 1, 2013, but not later than June 30, 2020, and subject to appropriation, any qualified company that locates or expands a facility within the Port of Virginia Economic and Infrastructure Development Zone shall be eligible to apply for a one-time grant from the Fund, in an amount determined as follows:

1. One thousand dollars per new, permanent full-time position if the qualified company creates at least 25 new, permanent full-time positions for qualified full-time employees during its first year of operation within the Zone or during the year in which the expansion occurs;

2. Fifteen hundred dollars per new, permanent full-time position if the qualified company creates at least 50 new, permanent full-time positions for qualified full-time employees during its first year of operation within the Zone or during the year in which the expansion occurs;

3. Two thousand dollars per new, permanent full-time position if the qualified company creates at least 75 new, permanent full-time positions for qualified full-time employees during its first year of operation within the Zone or during the year in which the expansion occurs; and

4. Three thousand dollars per new, permanent full-time position if the qualified company creates at least 100 new, permanent full-time positions for qualified full-time employees during its first year of operation within the Zone or during the year in which the expansion occurs.

E. The maximum amount of grant allowable per qualified company in any given fiscal year is $500,000. The maximum amount of grants allowable among all qualified companies in any given fiscal year is $5,000,000.

F. 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 Zone 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 Treasurer of Virginia on warrant of the Comptroller within 60 days of such certification and in the order that each completed eligible application is received. In the event that the amount of eligible grants requested in a fiscal year exceeds the funds available in the Fund or $5,000,000, such grants paid in the next fiscal year in which funds are available.

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 Zone. 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 must 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 is claimed for the same employees or for capital expenditures at the same facility by the qualified company, by a related party as defined in § 267(b) of the Internal Revenue Code, or by a trade or business under common control as defined in § 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.).

4. That the provisions of the first enactment of this act shall expire at midnight on June 30, 2014. The provisions of the second and third enactments of this act shall have no expiration date.