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HOUSE BILL NO. 2180

Offered January 9, 2019
Prefiled January 8, 2019

A BILL to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 22.12, consisting of a section numbered 59.1-284.31, relating to Semiconductor Manufacturing Grant Fund; creation.

Patrons—Rush, Ayala, Ingram, James, Landes, Poindexter, Robinson and Torian

Referred to Committee on Appropriations

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 22.12, consisting of a section numbered 59.1-284.31, as follows:

CHAPTER 22.12.

SEMICONDUCTOR MANUFACTURING GRANT FUND.

§ 59.1-284.31. Semiconductor Manufacturing Grant Fund created.

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

"Capital investment" means an expenditure, or an asset transfer from a different qualified company site outside of the eligible city to a facility within an eligible city, by or on behalf of the qualified company on or after April 1, 2018, in real property, tangible personal property, or both, at a facility within an eligible city that has been capitalized or is subject to being capitalized. "Capital investment" may include (i) the purchase of land and the cost of infrastructure development and land improvements, (ii) a capital expenditure related to a leasehold interest in real property, and (iii) the purchase or lease of furniture, fixtures, machinery, and equipment, including under an operating lease.

"Eligible city" means the City of Manassas.

"Facility" means the building, group of buildings, or manufacturing, distribution, and research and development campus, including any related machinery and tools, furniture, fixtures, and equipment, in an eligible city that is owned, leased, licensed, occupied, or otherwise operated by the qualified company for use in the manufacture of, or research and development for, semiconductors and other electronic devices.

"Fund" means the Semiconductor Manufacturing Grant Fund.

"Grant" means a grant from the Fund awarded to a qualified company in an aggregate amount of up to $70,000,000. Grant proceeds are intended to be used by the qualified company to pay or reimburse the costs of site preparation and infrastructure related to the facility.

"Memorandum of understanding" means a performance agreement or related document entered into on or before August 1, 2019, between a qualified company and the Commonwealth that sets forth the requirements for capital investment and the creation of new jobs for the qualified company.

"New job" means full-time employment at the facility measured at any time following June 30, 2018 for which the annual average wage is at least $92,000, with an escalation factor for each year, that requires a minimum of 38 hours of an employee's time per week for the entire normal year, consisting of at least 48 weeks, of the qualified company's operations. 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 jobs. Any new job must be in addition to the baseline number of existing full-time positions at the qualified company's facilities in the eligible city.

"Qualified company" means a semiconductor manufacturing company, and its affiliates, that manufactures and distributes semiconductors, that between April 1, 2018, and June 30, 2033, is expected to (i) make or cause to be made a capital investment at a facility of at least $2.98 billion; (ii) create and maintain at least 1,106 new jobs at the facility related to, or supportive of, its manufacturing, distribution, and research and development functions; and (iii) establish and operate a research and development facility for research and product development in areas of interest to a semiconductor manufacturer, including research regarding unmanned systems and the "Internet of things."

"Secretary" means the Secretary of Commerce and Trade or his designee.

B. There is hereby created in the state treasury a nonreverting fund to be known as the Semiconductor 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. 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 solely for the purpose to pay grant installments. Payment of such grant installments shall be made by check issued by

the State Treasurer on warrant of the Comptroller. The Comptroller shall not draw any warrants to issue checks for Grant installments under this section without a specific appropriation for the same.

C. Subject to appropriation by the General Assembly, a qualified company shall be eligible to receive grant installments of $50 million in fiscal year 2020 and $20 million in fiscal year 2021. Such grant installments shall be paid to the qualified company from the Fund during each such fiscal year, contingent upon the qualified company's meeting the requirements set forth in the memorandum of understanding to provide security for any potential repayment of the grant, including a cash escrow.

D. A qualified company receiving a grant installment pursuant to this section shall provide evidence, satisfactory to the Secretary, annually of (i) the aggregate number of new jobs created and maintained as of the last day of the fiscal year, the payroll paid by the qualified company during the fiscal year, and the average annual wage of the new jobs in the fiscal year and (ii) the aggregate amount of the capital investment made during the fiscal year, including the extent to which such capital investment was or was not subject to the Virginia Retail Sales and Use Tax (§ 58.1-600 et seq.). The report and evidence shall be filed with the Secretary in person, by mail, or as otherwise agreed upon in the memorandum of understanding, by no later than October 1 each year following the end of the prior fiscal year upon which the evidence is based.

E. The memorandum of understanding shall provide that if any annual report and evidence provided pursuant to subsection D indicates that the qualified company failed to meet certain targets for capital investment that is or is not subject to the Virginia retail sales and use tax, the average annual wage for new jobs, the number of new jobs, or the payroll paid for new jobs, the qualified company may be required to repay the Commonwealth a portion of the grant in an amount that reflects the value of the shortfall in the applicable target.

F. As a condition of receipt and retention of the grant, a qualified company shall make available to the Secretary for inspection all documents relevant and applicable to determining whether the qualified company has met the requirements for the receipt and retention of the grant as set forth herein and subject to the memorandum of understanding. All such documents appropriately identified by the qualified company shall be considered confidential and proprietary, and shall not be subject to disclosure pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).