

VIRGINIA ACTS OF ASSEMBLY -- 2005 SESSION

CHAPTER 392

An Act to amend and reenact §§ 59.1-284.14:1 and 59.1-284.15:1 of the Code of Virginia, relating to semiconductor manufacturing performance grants.

[H 2033]

Approved March 21, 2005

Be it enacted by the General Assembly of Virginia:

1. That §§ 59.1-284.14:1 and 59.1-284.15:1 of the Code of Virginia are amended and reenacted as follows:

§ 59.1-284.14:1. Grants for capital investments made and jobs created by qualified semiconductor manufacturers.

A. As used in this section:

"Eligible city" means the same as that term is defined in § 59.1-284.14.

"New capital investment" means a capital investment made on or after ~~May 1, 2000~~ *October 1, 2004*, in an eligible city, which denotes investment in buildings and equipment by a qualified semiconductor manufacturer, its related companies, or other entities with which it has a contractual, licensing, leasing or other agreement. Such new capital investment shall not include any capital investment made before ~~May 1, 2000~~ *October 1, 2004*, and shall not include any investment in buildings and equipment that also qualifies or has qualified as cumulative investment for purposes of the grant program established under § 59.1-284.14.

"New full-time job" means employment of an indefinite duration in an eligible city, created as the direct result of new capital investment, for which the standard fringe benefits are paid by the qualified semiconductor manufacturer, requiring a minimum of either (i) ~~thirty-five~~ 35 hours of an employee's time per week for the entire normal year of such manufacturer's operations, which "normal year" must consist of at least ~~forty-eight~~ 48 weeks or (ii) 1,680 hours per year. 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 full-time jobs under this section. Other positions including contractors, suppliers, and multiplier or spin-off jobs may be considered new full-time jobs, if so designated in the Memorandum of Understanding between such manufacturer and the Commonwealth.

"Qualified semiconductor manufacturer" means a qualified manufacturer, as defined in § 59.1-284.14, and its related companies that manufacture semiconductor-related products in an eligible city, either directly or through contractual, licensing, leasing, or other agreements with other entities.

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

B. Any qualified semiconductor manufacturer shall be eligible for annual grant payments under this section if the following conditions are met:

1. If such manufacturer (i) makes new capital investments *in equipment* of at least \$700 ~~\$400~~ million in an eligible city *by January 1, 2006, but in no event later than January 1, 2008*, and (ii) such investment results in the creation *and substantial retention throughout the grant payment period* of 600 ~~320~~ new full-time jobs in such city ~~by January 1, 2003 and results in an employment level that exceeds the level as of August 1, 2004, by at least 320 full-time employees~~, such manufacturer shall be eligible for a grant of \$8 million, to be paid in five equal annual grant payments of five million dollars ~~beginning after such \$700 \$1.6 million. Such annual payments shall commence beginning five years after the date the manufacturer certifies to the Commonwealth that the \$400 million in new capital investments have been made or five years after the commencement of the production of a semiconductor-related product using such new capital investments, whichever is later; however, if the manufacturer has failed to satisfy the condition regarding the creation of new full-time jobs as set forth in clause (ii) by the end of the calendar year immediately following the year that the manufacturer satisfied the condition regarding the new capital investment as set forth in clause (i), then the annual payments shall not commence until five years after the date the manufacturer satisfies the condition regarding the creation of new full-time jobs. The manufacturer shall be eligible for a grant under this subdivision if the number of persons employed by such manufacturer in an eligible city, by January 1, 2003, is equal to at least the number of persons employed by such manufacturer immediately prior to May 1, 2000, plus an additional 600 full-time employees. The grants under this subdivision shall not exceed twenty-five million dollars to all such qualified semiconductor manufacturers.~~

2. If such manufacturer (i) makes new capital investments of an additional two billion dollars of at least \$800 million, including at least \$50 million for real property, which \$800 million includes the \$400 million of new capital investments required to qualify for a grant under subdivision 1, in an eligible city, *by January 1, 2007, but in no event later than January 1, 2010*, and (ii) such investment results in the creation *and substantial retention throughout the grant payment period* of an additional

~~1,350~~ a cumulative total of at least 640 new full-time jobs in such city by January 1, 2007, which 640 new full-time jobs includes the 320 new full-time jobs required to qualify for a grant under subdivision 1 and results in an employment level that exceeds the level as of August 1, 2004, by at least 640 full-time employees, such manufacturer shall be eligible for ~~two~~ annual grant payments of five an additional grant of \$11 million ~~dollars~~ beginning ~~two~~, to be paid in five equal annual payments of \$2.2 million. Such annual payments shall commence beginning five years after such ~~two~~ billion dollars the date the manufacturer certifies to the Commonwealth that the additional increment of \$400 million in new capital investments ~~have~~ has been made; however, if the manufacturer fails to satisfy the condition regarding the creation of new full-time jobs as set forth in clause (ii) by the end of the calendar year immediately following the year that the manufacturer satisfied the condition regarding the new capital investment as set forth in clause (i), then the annual payments shall not commence until five years after the date the manufacturer satisfies the condition regarding the creation of new full-time jobs. A qualified semiconductor manufacturer shall be eligible for a grant under this subdivision if such new capital investments are in addition to the new capital investments made under subdivision 1.

3. ~~The qualified semiconductor~~ If such manufacturer (i) makes new capital investments of at least \$1.2 billion, including at least \$100 million for real property, which \$1.2 billion includes the \$800 million of new capital investments required to qualify for grants under subdivisions 1 and 2, in an eligible city by January 1, 2008, but in no event later than January 1, 2012, and (ii) such investment results in the creation and substantial retention throughout the grant payment period of a cumulative total of at least 860 new full-time jobs in such city, which 860 new full-time jobs includes the 640 new full-time jobs required to qualify for grants under subdivisions 1 and 2 and results in an employment level that exceeds the level as of August 1, 2004, by at least 860 full-time employees, such manufacturer shall also be eligible to receive ~~four~~ annual for an additional grant payments of \$8,750,000 beginning in the second year after a certification by the Secretary that such additional 1,350 new full-time jobs have been created by the qualified semiconductor manufacturer. A qualified semiconductor manufacturer shall be eligible for a grant under this subdivision if the number of persons employed by such manufacturer in an eligible city, by January 1, 2007, is equal to at least the number of persons employed by such manufacturer immediately prior to May 1, 2000, plus an additional 1,950 full-time employees \$8 million, to be paid in five equal annual payments of \$1.6 million. Such annual payments shall commence beginning five years after the date the manufacturer certifies to the Commonwealth that the additional increment of \$400 million in new capital investments has been made; however, if the manufacturer fails to satisfy the condition regarding the creation of new full-time jobs as set forth in clause (ii) by the end of the calendar year immediately following the year that the manufacturer satisfied the condition regarding the new capital investment as set forth in clause (i), then the annual payments shall not commence until five years after the date the manufacturer satisfies the condition regarding the creation of new full-time jobs.

4. The total amount of grants to all such qualified semiconductor manufacturers under subdivisions 1 through 3 shall not exceed ~~seventy~~ \$27 million ~~dollars~~. In addition, no grant shall be paid to a qualified semiconductor manufacturer until the Senate Committee on Finance and the House Committees on Appropriations and Finance review the unsigned written Memorandum of Understanding between such manufacturer and the Commonwealth, with such Memorandum of Understanding specifying the conditions of grant eligibility.

C. ~~Any semiconductor-related products that are produced or manufactured as a result of such new capital investments made after December 31, 2011,~~ shall not be eligible for grants as ~~provided under § 59.1-284.14 this section.~~

D. Any qualified semiconductor manufacturer entitled to apply for a grant under this section shall provide evidence, satisfactory to the Secretary, of new capital investment and employment levels achieved in an eligible city during a particular calendar year. The application and evidence shall be filed by such manufacturer with the Secretary in person or by mail no later than March 31 (or such later date determined by the Secretary in his sole discretion) each year it is eligible for grants in the calendar year or years following the calendar year in which the conditions of subsection B have been met. Failure to meet the filing deadline shall render the applicant ineligible to receive a grant for such calendar year. For filings by mail, the postmark cancellation shall govern the date of the filing determination.

E. Within ~~ninety~~ 90 days after the filing deadline in subsection D, the Secretary shall certify to (i) the Comptroller and (ii) each applicant the amount of the grant to which such applicant is entitled under this section for the calendar year. Payment of such grant shall be made by check issued by the State Treasurer on warrant of the Comptroller within ~~sixty~~ 60 days of such certification.

F. As a condition of receipt of a grant, a qualified semiconductor manufacturer shall make available to the Secretary for inspection, upon his request, all relevant and applicable documents to determine whether the qualified semiconductor manufacturer meets the requirements for the receipt of grants as set forth in this section and subject to a Memorandum of Agreement between a qualified semiconductor manufacturer and the Commonwealth. All such documents appropriately identified by the qualified semiconductor manufacturer shall be considered confidential and proprietary. The Comptroller shall not draw any warrants to issue checks for this program without a specific legislative appropriation as

specified in conditions and restrictions on expenditures in the appropriation act.

G. The grants that may be paid under this section shall be paid from the Semiconductor Memory or Logic Wafer Manufacturing Performance Grant Fund established under § 59.1-284.14, subject to appropriations to such fund by the General Assembly.

§ 59.1-284.15:1. Grants for additional employment and new capital investment.

A. As used in this section:

"Eligible county" means the same as that term is defined in § 59.1-284.15.

"New capital investment" means capital investment made on or after July 1, 2000, that denotes investment in buildings and equipment by a qualified manufacturer. Such new capital investment shall not include any capital investment made before July 1, 2000, and shall not include any investment in buildings and equipment that makes or has made such manufacturer a qualified manufacturer as defined under § 59.1-284.15.

"New full-time job" means employment of an indefinite duration in an eligible county, created as the direct result of new capital investment, for which the standard fringe benefits are paid by the qualified manufacturer, requiring a minimum of either (i) ~~thirty-five~~ 35 hours of an employee's time per week for the entire normal year of such manufacturer's operations, which "normal year" must consist of at least ~~forty-eight~~ 48 weeks or (ii) 1,680 hours per year. 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 full-time jobs under this section. Other positions including contractors, suppliers, and multiplier or spin-off jobs may be considered new full-time jobs, if so designated in the Memorandum of Understanding between such manufacturer and the Commonwealth.

"Qualified manufacturer" means a qualified manufacturer as defined in § 59.1-284.15, its related companies, or contractual partners.

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

B. Any qualified manufacturer shall be eligible for annual grant payments under this section if the following conditions are met:

1. If such manufacturer makes a new capital investment of at least \$1.1 billion in an eligible county that results in the creation of a new manufacturing module by January 1, ~~2004~~ 2007, *and at least one-half of the new capital investment is made by January 1, 2006*, the qualified manufacturer shall be eligible ~~for one to receive a grant of payment of fifteen \$15 million dollars two years after the completion of facilities represented by such new capital investment, to be paid in two equal payments of \$7.5 million, the first such payment to be made after the new capital investment of \$550 million is made, but not before July 1, 2006, and the second payment to be made on July 1, 2007.~~

2. If such manufacturer creates ~~300 an additional 1,000~~ new full-time ~~administrative~~ jobs by January 1, ~~2004~~ 2008, the qualified manufacturer shall be eligible to receive ~~an additional a grant payment of five \$35 million dollars, to be paid in four equal annual grant payments of \$8.75 million, the first such payment to be made two years after certification by the Secretary that the at least 500 new full-time jobs have been created, but not before July 1, 2007. Subsequent payments shall also be subject to certification by the Secretary that new jobs have been created and retained during the course of the payment period.~~ A qualified manufacturer shall be eligible for ~~a the full grant amount~~ under this subdivision if the number of persons employed by such manufacturer in an eligible county, by January 1, ~~2004~~ 2008, is equal to at least the number of persons employed by such manufacturer immediately prior to July 1, 2000, plus an additional ~~300 1,000~~ full-time employees.

3. If such manufacturer creates ~~an additional 1,400~~ 200 new full-time jobs by January 1, ~~2005~~ 2009, the qualified manufacturer shall be eligible to receive ~~four an additional annual grant payments payment of \$8,750,000 beginning \$5 million, to be paid in two equal annual payments of \$2.5 million, the first such payment to be made two years after certification by the Secretary that the at least 100 new full-time jobs have been created. The subsequent payment shall also be subject to certification by the Secretary that new jobs have been created and retained during the course of the payment period.~~ A qualified manufacturer shall be eligible for ~~a the full grant amount~~ under this subdivision if the number of persons employed by such manufacturer in an eligible county, by January 1, ~~2005~~ 2009, is equal to at least the number of persons employed by such manufacturer immediately prior to July 1, 2000, plus ~~an the additional 1,400 1,200~~ full-time employees.

4. The total amount of grants to all such qualified manufacturers under subdivisions 1 through 3 shall not exceed ~~fifty-five \$55 million dollars~~. In addition, no grant shall be paid to a qualified manufacturer until the Senate Committee on Finance and the House Committees on Appropriations and Finance review the unsigned written Memorandum of Understanding between such manufacturer and the Commonwealth, with such Memorandum of Understanding specifying the conditions of grant eligibility.

C. Any semiconductor-related products that are produced or manufactured as a result of such new capital investments shall not be eligible for grants as provided under § 59.1-284.15.

D. Any qualified manufacturer entitled to apply for a grant under this section shall provide evidence, satisfactory to the Secretary, of new capital investment and employment levels achieved in an eligible county during a particular calendar year. The application and evidence shall be filed by such manufacturer with the Secretary in person or by mail no later than March 31 (or such later date

determined by the Secretary in his sole discretion) each year it is eligible for grants in the calendar year or years following the calendar year in which the conditions of subsection B have been met. Failure to meet the filing deadline shall render the applicant ineligible to receive a grant for such calendar year. For filings by mail, the postmark cancellation shall govern the date of the filing determination.

E. Within ~~ninety~~ 90 days after the filing deadline in subsection D, the Secretary shall certify to (i) the Comptroller and (ii) each applicant the amount of the grant to which such applicant is entitled under this section for the calendar year. Payment of such grant shall be made by check issued by the State Treasurer on warrant of the Comptroller within ~~sixty~~ 60 days of such certification.

F. As a condition of receipt of a grant, a qualified manufacturer shall make available to the Secretary for inspection, upon his request, all relevant and applicable documents to determine whether the qualified manufacturer meets the requirements for the receipt of grants as set forth in this section and subject to a Memorandum of Agreement between a qualified manufacturer and the Commonwealth. All such documents appropriately identified by the qualified manufacturer shall be considered confidential and proprietary. The Comptroller shall not draw any warrants to issue checks for this program without a specific legislative appropriation as specified in conditions and restrictions on expenditures in the appropriation act.

G. The grants that may be paid under this section shall be paid from the Semiconductor Memory or Logic Wafer Manufacturing Performance Grant Fund II established under § 59.1-284.15, subject to appropriations to such fund by the General Assembly.