

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

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 has 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~~

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58 eligible city, by January 1, 2007, but in no event later than January 1, 2010, and (ii) such investment
 59 results in the creation and substantial retention throughout the grant payment period of an additional
 60 1,350 a cumulative total of at least 640 new full-time jobs in such city by January 1, 2007, which 640
 61 new full-time jobs includes the 320 new full-time jobs required to qualify for a grant under subdivision
 62 1 and results in an employment level that exceeds the level as of August 1, 2004, by at least 640
 63 full-time employees, such manufacturer shall be eligible for two annual grant payments of five an
 64 additional grant of \$11 million dollars beginning two, to be paid in five equal annual payments of \$2.2
 65 million. Such annual payments shall commence beginning five years after such two billion dollars the
 66 date the manufacturer certifies to the Commonwealth that the additional increment of \$400 million in
 67 new capital investments have has been made; however, if the manufacturer fails to satisfy the condition
 68 regarding the creation of new full-time jobs as set forth in clause (ii) by the end of the calendar year
 69 immediately following the year that the manufacturer satisfied the condition regarding the new capital
 70 investment as set forth in clause (i), then the annual payments shall not commence until five years after
 71 the date the manufacturer satisfies the condition regarding the creation of new full-time jobs. A
 72 qualified semiconductor manufacturer shall be eligible for a grant under this subdivision if such new
 73 capital investments are in addition to the new capital investments made under subdivision 1.

74 3. The qualified semiconductor If such manufacturer (i) makes new capital investments of at least
 75 \$1.2 billion, including at least \$100 million for real property, which \$1.2 billion includes the \$800
 76 million of new capital investments required to qualify for grants under subdivisions 1 and 2, in an
 77 eligible city by January 1, 2008, but in no event later than January 1, 2012, and (ii) such investment
 78 results in the creation and substantial retention throughout the grant payment period of a cumulative
 79 total of at least 860 new full-time jobs in such city, which 860 new full-time jobs includes the 640 new
 80 full-time jobs required to qualify for grants under subdivisions 1 and 2 and results in an employment
 81 level that exceeds the level as of August 1, 2004, by at least 860 full-time employees, such manufacturer
 82 shall also be eligible to receive four annual for an additional grant payments of \$8,750,000 beginning in
 83 the second year after a certification by the Secretary that such additional 1,350 new full-time jobs have
 84 been created by the qualified semiconductor manufacturer. A qualified semiconductor manufacturer shall
 85 be eligible for a grant under this subdivision if the number of persons employed by such manufacturer
 86 in an eligible city, by January 1, 2007, is equal to at least the number of persons employed by such
 87 manufacturer immediately prior to May 1, 2000, plus an additional 1,950 full-time employees \$8
 88 million, to be paid in five equal annual payments of \$1.6 million. Such annual payments shall commence
 89 beginning five years after the date the manufacturer certifies to the Commonwealth that the additional
 90 increment of \$400 million in new capital investments has been made; however, if the manufacturer fails
 91 to satisfy the condition regarding the creation of new full-time jobs as set forth in clause (ii) by the end
 92 of the calendar year immediately following the year that the manufacturer satisfied the condition
 93 regarding the new capital investment as set forth in clause (i), then the annual payments shall not
 94 commence until five years after the date the manufacturer satisfies the condition regarding the creation
 95 of new full-time jobs.

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

102 C. Any semiconductor-related products that are produced or manufactured as a result of such new
 103 capital investments made after December 31, 2011, shall not be eligible for grants as provided under
 104 § 59.1-284.14 this section.

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

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

117 F. As a condition of receipt of a grant, a qualified semiconductor manufacturer shall make available
 118 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

180 review the unsigned written Memorandum of Understanding between such manufacturer and the
181 Commonwealth, with such Memorandum of Understanding specifying the conditions of grant eligibility.

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

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

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

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

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