

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1675
95TH GENERAL ASSEMBLY

Reported from the Committee on Jobs, Economic Development and Local Government, April 15, 2010, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

4083S.05C

AN ACT

To amend chapter 620, RSMo, by adding thereto one new section relating to job growth.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 620, RSMo, is amended by adding thereto one new section, to be known as section 620.1910, to read as follows:

620.1910. 1. This section shall be known and may be cited as the "Manufacturing Jobs Act".

2. As used in this section, the following terms mean:

(1) "Approval", a document submitted by the department to the qualified manufacturing facility or qualified supplier that states the benefits that may be provided under this section;

(2) "Capital investment", expenditures made by a qualified manufacturing company to retool or reconfigure a manufacturing facility directly related to the manufacturing of a new product;

(3) "County average wage", the same meaning as provided under section 620.1878;

(4) "Department", the department of economic development;

(5) "Facility", a building or buildings located in Missouri at which the new product is manufactured;

(6) "Full-time job", a job for which a person is compensated for an average of at least thirty-five hours per week for a twelve-month period, and one for which the qualified manufacturing company or qualified supplier offers health insurance and pays at least fifty percent of such insurance premiums;

20 (7) "NAICS industry classification", the 1997 edition of the North
21 American Industry Classification System as prepared by the Executive
22 Office of the President, Office of Management and Budget;

23 (8) "New job", the same meaning as provided under section
24 620.1878;

25 (9) "New product", a new model or line of a manufactured good
26 that has not been manufactured in Missouri by the qualified
27 manufacturing company at any time prior to the date of the notice of
28 intent;

29 (10) "Notice of intent", a form developed by the department,
30 completed by the qualified manufacturing company or qualified
31 supplier and submitted to the department which states the qualified
32 manufacturing company's or qualified supplier's intent to create new
33 jobs or retain current jobs and make additional capital investment, as
34 applicable, and request benefits under this section. The notice of intent
35 shall specify the minimum number of such new or retained jobs and the
36 minimum amount of such capital investment;

37 (11) "Private funds", financing sources of the qualified
38 manufacturing company for the retention or creation of jobs or capital
39 investment which shall include equity or loans that require repayment
40 and are from sources other than guaranteed funds directly attributed
41 to the capital investment granted by Missouri or one or more of its
42 local political subdivisions;

43 (12) "Qualified manufacturing company", a business that:

44 (a) Manufactures goods at a facility in Missouri;

45 (b) Derives more than ten percent of the facility's total annual
46 sales from goods produced at the facility which are exported outside
47 the United States or sold to the federal government for export outside
48 the United States or that derives more than twenty percent of total
49 annual sales of the facility from goods produced at the facility which
50 are exported outside the state of Missouri;

51 (c) Commits to make a capital investment of at least one hundred
52 thousand dollars per retained job within no more than two years of the
53 date the qualified manufacturing company begins to retain withholding
54 tax pursuant to this section;

55 (d) Manufactures a new product or has commenced making
56 capital improvements to the facility necessary for the manufacturing

57 of such new product; and

58 (e) Continues to meet the requirements of paragraphs (a) to (d)
59 of this subdivision for a period of at least ten years from the date of the
60 notice of intent;

61 (13) "Qualified supplier", a manufacturing company that:

62 (a) Attests to the department that it derives more than ten
63 percent of the total annual sales of the company from sales to a
64 qualified manufacturing facility;

65 (b) Adds five or more new jobs;

66 (c) Pays wages for such new jobs that are equal to or exceed the
67 lower of the county average wage or the industry average wage for
68 Missouri as determined by the department using NAICS industry
69 classifications, but not lower than sixty percent of the statewide
70 average wage; and

71 (d) Provides health insurance to employees and pays at least
72 fifty percent of the premiums of such insurance;

73 (14) "Retained job", the number of full-time jobs of persons
74 employed by the qualified manufacturing company located at the
75 project facility that existed as of the last working day of the month
76 immediately preceding the month in which notice of intent is
77 submitted;

78 (15) "Statewide average wage", an amount equal to the quotient
79 of the sum of the total gross wages paid for the corresponding four
80 calendar quarters divided by the average annual employment for such
81 four calendar quarters, which shall be computed using the Quarterly
82 Census of Employment and Wages Data for all Private Ownership
83 Businesses in Missouri, as published by the Bureau of Labor Statistics
84 of the United States Department of Labor;

85 (16) "Total annual sales", the denominator of the sales
86 apportionment fraction reported on the Missouri tax return filed by the
87 qualified manufacturing company or the qualified supplier for taxes
88 imposed under chapter 143;

89 (17) "Withholding period", the ten year period in which a
90 qualified manufacturing company may receive benefits under this
91 section;

92 (18) "Withholding tax", the same meaning as provided under
93 section 620.1878.

94 **3. The department shall respond within thirty days to a qualified**
95 **manufacturing company or a qualified supplier who provides a notice**
96 **of intent with either an approval or a rejection of the notice of**
97 **intent. Failure to respond on behalf of the department shall result in**
98 **the notice of intent being deemed an approval for the purposes of this**
99 **section.**

100 **4. A qualified manufacturing company may, upon the**
101 **department's approval of a notice of intent and the execution of an**
102 **agreement that meets the requirements of subsection 9 of this section,**
103 **but no earlier than January 1, 2012, retain fifty percent of the**
104 **withholding tax from full-time jobs at the facility for a period of ten**
105 **years. Except as otherwise allowed under subsection 7 of this section,**
106 **the commencement of the withholding period may be delayed by no**
107 **more than twenty-four months after execution of the agreement at the**
108 **option of the qualified manufacturing company. Such qualified**
109 **manufacturing company shall be eligible for participation in the**
110 **Missouri quality jobs program under sections 620.1875 to 620.1890 for**
111 **any new jobs for which it does not retain withholding tax pursuant to**
112 **this section, provided all qualifications for such program are met.**

113 **5. A qualified supplier may, upon approval of a notice of intent**
114 **by the department, retain all withholding tax from new jobs for a**
115 **period of three years from the date of approval of the notice of intent**
116 **or for a period of five years if the supplier pays wages for the new jobs**
117 **equal to or greater than one hundred twenty percent of county average**
118 **wage. Notwithstanding any provision of law to the contrary, a qualified**
119 **supplier that is awarded benefits under this section shall not receive**
120 **any tax credit or exemption or be entitled to retain withholding under**
121 **sections 100.700 to 100.850, sections 135.100 to 135.150, sections 135.200**
122 **to 135.286, section 135.535, sections 135.900 to 135.906, sections 135.950**
123 **to 135.970, or section 620.1881 for the same jobs.**

124 **6. Notwithstanding any other provision of this section, the**
125 **maximum amount of withholding tax that may be retained by any one**
126 **qualified manufacturing company pursuant to this section shall not**
127 **exceed ten million dollars per calendar year. The aggregate amount of**
128 **withholding tax that may be retained by all qualified manufacturing**
129 **companies pursuant to this section shall not exceed fifteen million**
130 **dollars per calendar year.**

131 7. Notwithstanding any provision of law to the contrary, any
132 qualified manufacturing company that is awarded benefits under this
133 section shall not simultaneously receive tax credits or exemptions
134 under sections 100.700 to 100.850, sections 135.100 to 135.150, sections
135 135.200 to 135.286, section 135.535, or sections 135.900 to 135.906 for the
136 jobs created or retained or capital improvement which qualified for
137 benefits under this section. The benefits available to the qualified
138 manufacturing company under any other state programs for which the
139 qualified manufacturing company is eligible and which utilize
140 withholding tax from the jobs at the facility shall first be credited to
141 the other state program before the applicable withholding period for
142 benefits provided under this section shall begin. These other state
143 programs shall include, but are not limited to, the new jobs training
144 program under sections 178.892 to 178.896, the job retention program
145 under sections 178.760 to 178.764, the real property tax increment
146 allocation redevelopment act, sections 99.800 to 99.865, or the Missouri
147 downtown and rural economic stimulus act under sections 99.915 to
148 99.980. If any qualified manufacturing company also participates in the
149 new jobs training program in sections 178.892 to 178.896, such qualified
150 manufacturing company shall not retain any withholding tax that has
151 already been allocated for use in the new jobs training program. Any
152 taxpayer who is awarded benefits under this section who knowingly
153 hires individuals who are not allowed to work legally in the United
154 States shall immediately forfeit such benefits and shall repay the state
155 an amount equal to any withholding taxes already retained. Subsection
156 5 of section 285.530 shall not apply to taxpayers awarded benefits under
157 this program.

158 8. The department may promulgate rules to implement the
159 provisions of this section. Any rule or portion of a rule, as that term is
160 defined in section 536.010, that is created under the authority delegated
161 in this section shall become effective only if it complies with and is
162 subject to all of the provisions of chapter 536 and, if applicable, section
163 536.028. This section and chapter 536 are nonseverable and if any of
164 the powers vested with the general assembly under chapter 536 to
165 review, to delay the effective date, or to disapprove and annul a rule
166 are subsequently held unconstitutional, then the grant of rulemaking
167 authority and any rule proposed or adopted after August 28, 2010, shall

168 be invalid and void.

169 9. Within six months of completion of a notice of intent required
170 under this section, the qualified manufacturing company shall enter
171 into an agreement with the department that memorializes the contents
172 of the notice of intent, the requirements of this section, and the
173 consequences for failing to meet such requirements, which shall include
174 the following:

175 (1) If the number of full-time jobs of the qualified manufacturing
176 company at the facility falls below the number of full-time jobs
177 specified within the notice of intent at any time during the withholding
178 period, or if the amount of capital investment made by the qualified
179 manufacturing company is not made within the two-year period
180 provided for such investment, the qualified manufacturing company
181 shall immediately cease retaining any withholding tax with respect to
182 jobs at the facility and it shall forfeit all rights to retain withholding
183 tax for the remainder of the withholding period. In addition, the
184 qualified manufacturing company shall repay any amounts of
185 withholding tax retained plus interest of five percent per annum.
186 However, in the event that such employment shortfall is due to
187 economic conditions beyond the control of the qualified manufacturing
188 company, the director may, at the qualified manufacturing company's
189 request, suspend rather than terminate its privilege to retain
190 withholding tax pursuant to this section for up to three years. Any
191 such suspension shall extend the withholding period by the same
192 amount of time. No more than one such suspension shall be granted to
193 a qualified manufacturing company;

194 (2) If the qualified manufacturing company discontinues the
195 manufacturing of the new product and does not replace it with a
196 subsequent or additional new product manufactured at the facility at
197 any time during the withholding period, the qualified manufacturing
198 company shall immediately cease retaining any withholding tax with
199 respect to jobs at that facility and it shall forfeit all rights to retain
200 withholding tax for the remainder of the withholding period.

201 10. Prior to March first each year, the department shall provide
202 a report to the general assembly including the names of participating
203 qualified manufacturing companies or qualified suppliers, location of
204 facilities or suppliers, the annual amount of benefits provided, the

205 estimated net state fiscal impact including direct and indirect new
206 state taxes derived, and the number of new jobs created or jobs
207 retained.

208 11. Under section 23.253, of the Missouri sunset act:

209 (1) The provisions of the new program authorized under this
210 section shall automatically sunset six years after the effective date of
211 this section unless reauthorized by an act of the general assembly; and

212 (2) If such program is reauthorized, the program authorized
213 under this section shall automatically sunset twelve years after the
214 effective date of the reauthorization of this section; and

215 (3) This section shall terminate on September first of the
216 calendar year immediately following the calendar year in which the
217 program authorized under this section is sunset.

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