

SECOND REGULAR SESSION

HOUSE BILL NO. 2034

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES JONES (117) (Sponsor),
WEBBER AND KELLY (24) (Co-sponsors).

6227L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 135.950, RSMo, and to enact in lieu thereof one new section relating to blighted areas.

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

Section A. Section 135.950, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 135.950, to read as follows:

135.950. The following terms, whenever used in sections 135.950 to 135.970 mean:

- 2 (1) "Average wage", the new payroll divided by the number of new jobs;
- 3 (2) "Blighted area", an area which, by reason of the predominance of defective or
- 4 inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements,
- 5 improper subdivision or obsolete platting, or the existence of conditions which endanger life or
- 6 property by fire and other causes, or any combination of such factors, retards the provision of
- 7 housing accommodations or constitutes an economic or social liability or a menace to the public
- 8 health, safety, morals, or welfare in its present condition and use. The term "blighted area" shall
- 9 also include any area which produces or generates or has the potential to produce or generate
- 10 electrical energy from a renewable energy resource, and which, by reason of obsolescence,
- 11 decadence, blight, dilapidation, deteriorating or inadequate site improvements, substandard
- 12 conditions, the predominance [or] **of** defective or inadequate street layout, unsanitary or unsafe
- 13 conditions, improper subdivision or obsolete platting, or the existence of conditions which
- 14 endanger the life or property by fire or other means, or any combination of such factors, is
- 15 underutilized, unutilized, or diminishes the economic usefulness of the land, improvements, or
- 16 lock and dam site within such area for the production, generation, conversion, and conveyance

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 of electrical energy from a renewable energy resource. **The term "blighted area" shall also**
18 **include areas that are identified as distressed by the United States government, including**
19 **the Community Development Block Grant (CDBG), New Markets Tax Credits, or SBA**
20 **HUBZone designation;**

21 (3) "Board", an enhanced enterprise zone board established pursuant to section 135.957;

22 (4) "Commencement of commercial operations" shall be deemed to occur during the first
23 taxable year for which the new business facility is first put into use by the taxpayer in the
24 enhanced business enterprise in which the taxpayer intends to use the new business facility;

25 (5) "County average wage", the average wages in each county as determined by the
26 department for the most recently completed full calendar year. However, if the computed county
27 average wage is above the statewide average wage, the statewide average wage shall be deemed
28 the county average wage for such county for the purpose of determining eligibility. The
29 department shall publish the county average wage for each county at least annually.
30 Notwithstanding the provisions of this subdivision to the contrary, for any taxpayer that in
31 conjunction with their project is relocating employees from a Missouri county with a higher
32 county average wage, such taxpayer shall obtain the endorsement of the governing body of the
33 community from which jobs are being relocated or the county average wage for their project shall
34 be the county average wage for the county from which the employees are being relocated;

35 (6) "Department", the department of economic development;

36 (7) "Director", the director of the department of economic development;

37 (8) "Employee", a person employed by the enhanced business enterprise that is scheduled
38 to work an average of at least one thousand hours per year, and such person at all times has
39 health insurance offered to him or her, which is partially paid for by the employer;

40 (9) "Enhanced business enterprise", an industry or one of a cluster of industries that is
41 either:

42 (a) Identified by the department as critical to the state's economic security and growth;
43 or

44 (b) Will have an impact on industry cluster development, as identified by the governing
45 authority in its application for designation of an enhanced enterprise zone and approved by the
46 department; but excluding gambling establishments (NAICS industry group 7132), retail trade
47 (NAICS sectors 44 and 45), educational services (NAICS sector 61), religious organizations
48 (NAICS industry group 8131), public administration (NAICS sector 92), and food and drinking
49 places (NAICS subsector 722), however, notwithstanding provisions of this section to the
50 contrary, headquarters or administrative offices of an otherwise excluded business may qualify
51 for benefits if the offices serve a multistate territory. In the event a national, state, or regional
52 headquarters operation is not the predominant activity of a project facility, the new jobs and

53 investment of such headquarters operation is considered eligible for benefits under this section
54 if the other requirements are satisfied. Service industries may be eligible only if a majority of
55 its annual revenues will be derived from out of the state;

56 (10) "Existing business facility", any facility in this state which was employed by the
57 taxpayer claiming the credit in the operation of an enhanced business enterprise immediately
58 prior to an expansion, acquisition, addition, or replacement;

59 (11) "Facility", any building used as an enhanced business enterprise located within an
60 enhanced enterprise zone, including the land on which the facility is located and all machinery,
61 equipment, and other real and depreciable tangible personal property acquired for use at and
62 located at or within such facility and used in connection with the operation of such facility;

63 (12) "Facility base employment", the greater of the number of employees located at the
64 facility on the date of the notice of intent, or for the twelve-month period prior to the date of the
65 notice of intent, the average number of employees located at the facility, or in the event the
66 project facility has not been in operation for a full twelve-month period, the average number of
67 employees for the number of months the facility has been in operation prior to the date of the
68 notice of intent;

69 (13) "Facility base payroll", the total amount of taxable wages paid by the enhanced
70 business enterprise to employees of the enhanced business enterprise located at the facility in the
71 twelve months prior to the notice of intent, not including the payroll of owners of the enhanced
72 business enterprise unless the enhanced business enterprise is participating in an employee stock
73 ownership plan. For the purposes of calculating the benefits under this program, the amount of
74 base payroll shall increase each year based on the consumer price index or other comparable
75 measure, as determined by the department;

76 (14) "Governing authority", the body holding primary legislative authority over a county
77 or incorporated municipality;

78 (15) "Megaproject", any manufacturing or assembling facility, approved by the
79 department for construction and operation within an enhanced enterprise zone, which satisfies
80 the following:

81 (a) The new capital investment is projected to exceed three hundred million dollars over
82 a period of eight years from the date of approval by the department;

83 (b) The number of new jobs is projected to exceed one thousand over a period of eight
84 years beginning on the date of approval by the department;

85 (c) The average wage of new jobs to be created shall exceed the county average wage;

86 (d) The taxpayer shall offer health insurance to all new jobs and pay at least eighty
87 percent of such insurance premiums; and

88 (e) An acceptable plan of repayment, to the state, of the tax credits provided for the
89 megaproject has been provided by the taxpayer;

90 (16) "NAICS", the 1997 edition of the North American Industry Classification System
91 as prepared by the Executive Office of the President, Office of Management and Budget. Any
92 NAICS sector, subsector, industry group or industry identified in this section shall include its
93 corresponding classification in subsequent federal industry classification systems;

94 (17) "New business facility", a facility that does not produce or generate electrical energy
95 from a renewable energy resource and satisfies the following requirements:

96 (a) Such facility is employed by the taxpayer in the operation of an enhanced business
97 enterprise. Such facility shall not be considered a new business facility in the hands of the
98 taxpayer if the taxpayer's only activity with respect to such facility is to lease it to another person
99 or persons. If the taxpayer employs only a portion of such facility in the operation of an
100 enhanced business enterprise, and leases another portion of such facility to another person or
101 persons or does not otherwise use such other portions in the operation of an enhanced business
102 enterprise, the portion employed by the taxpayer in the operation of an enhanced business
103 enterprise shall be considered a new business facility, if the requirements of paragraphs (b), (c),
104 and (d) of this subdivision are satisfied;

105 (b) Such facility is acquired by, or leased to, the taxpayer after December 31, 2004. A
106 facility shall be deemed to have been acquired by, or leased to, the taxpayer after December 31,
107 2004, if the transfer of title to the taxpayer, the transfer of possession pursuant to a binding
108 contract to transfer title to the taxpayer, or the commencement of the term of the lease to the
109 taxpayer occurs after December 31, 2004;

110 (c) If such facility was acquired by the taxpayer from another taxpayer and such facility
111 was employed immediately prior to the acquisition by another taxpayer in the operation of an
112 enhanced business enterprise, the operation of the same or a substantially similar enhanced
113 business enterprise is not continued by the taxpayer at such facility; and

114 (d) Such facility is not a replacement business facility, as defined in subdivision (27) of
115 this section;

116 (18) "New business facility employee", an employee of the taxpayer in the operation of
117 a new business facility during the taxable year for which the credit allowed by section 135.967
118 is claimed, except that truck drivers and rail and barge vehicle operators and other operators of
119 rolling stock for hire shall not constitute new business facility employees;

120 (19) "New business facility investment", the value of real and depreciable tangible
121 personal property, acquired by the taxpayer as part of the new business facility, which is used by
122 the taxpayer in the operation of the new business facility, during the taxable year for which the
123 credit allowed by 135.967 is claimed, except that trucks, truck-trailers, truck semitrailers, rail

124 vehicles, barge vehicles, aircraft and other rolling stock for hire, track, switches, barges, bridges,
125 tunnels, and rail yards and spurs shall not constitute new business facility investments. The total
126 value of such property during such taxable year shall be:

127 (a) Its original cost if owned by the taxpayer; or

128 (b) Eight times the net annual rental rate, if leased by the taxpayer. The net annual rental
129 rate shall be the annual rental rate paid by the taxpayer less any annual rental rate received by the
130 taxpayer from subrentals. The new business facility investment shall be determined by dividing
131 by twelve the sum of the total value of such property on the last business day of each calendar
132 month of the taxable year. If the new business facility is in operation for less than an entire
133 taxable year, the new business facility investment shall be determined by dividing the sum of the
134 total value of such property on the last business day of each full calendar month during the
135 portion of such taxable year during which the new business facility was in operation by the
136 number of full calendar months during such period;

137 (20) "New job", the number of employees located at the facility that exceeds the facility
138 base employment less any decrease in the number of the employees at related facilities below the
139 related facility base employment. No job that was created prior to the date of the notice of intent
140 shall be deemed a new job;

141 (21) "Notice of intent", a form developed by the department which is completed by the
142 enhanced business enterprise and submitted to the department which states the enhanced
143 business enterprise's intent to hire new jobs and request benefits under such program;

144 (22) "Related facility", a facility operated by the enhanced business enterprise or a
145 related company in this state that is directly related to the operation of the project facility;

146 (23) "Related facility base employment", the greater of:

147 (a) The number of employees located at all related facilities on the date of the notice of
148 intent; or

149 (b) For the twelve-month period prior to the date of the notice of intent, the average
150 number of employees located at all related facilities of the enhanced business enterprise or a
151 related company located in this state;

152 (24) "Related taxpayer":

153 (a) A corporation, partnership, trust, or association controlled by the taxpayer;

154 (b) An individual, corporation, partnership, trust, or association in control of the
155 taxpayer; or

156 (c) A corporation, partnership, trust or association controlled by an individual,
157 corporation, partnership, trust or association in control of the taxpayer. "Control of a
158 corporation" shall mean ownership, directly or indirectly, of stock possessing at least fifty
159 percent of the total combined voting power of all classes of stock entitled to vote, "control of a

160 partnership or association" shall mean ownership of at least fifty percent of the capital or profits
161 interest in such partnership or association, and "control of a trust" shall mean ownership, directly
162 or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such
163 trust; ownership shall be determined as provided in Section 318 of the Internal Revenue Code
164 of 1986, as amended;

165 (25) "Renewable energy generation zone", an area which has been found, by a resolution
166 or ordinance adopted by the governing authority having jurisdiction of such area, to be a blighted
167 area and which contains land, improvements, or a lock and dam site which is unutilized or
168 underutilized for the production, generation, conversion, and conveyance of electrical energy
169 from a renewable energy resource;

170 (26) "Renewable energy resource", shall include:

171 (a) Wind;

172 (b) Solar thermal sources or photovoltaic cells and panels;

173 (c) Dedicated crops grown for energy production;

174 (d) Cellulosic agricultural residues;

175 (e) Plant residues;

176 (f) Methane from landfills, agricultural operations, or wastewater treatment;

177 (g) Thermal depolymerization or pyrolysis for converting waste material to energy;

178 (h) Clean and untreated wood such as pallets;

179 (i) Hydroelectric power, which shall include electrical energy produced or generated by
180 hydroelectric power generating equipment, as such term is defined in section 137.010;

181 (j) Fuel cells using hydrogen produced by one or more of the renewable resources
182 provided in paragraphs (a) to (i) of this subdivision; or

183 (k) Any other sources of energy, not including nuclear energy, that are certified as
184 renewable by rule by the department of natural resources;

185 (27) "Replacement business facility", a facility otherwise described in subdivision (17)
186 of this section, hereafter referred to in this subdivision as "new facility", which replaces another
187 facility, hereafter referred to in this subdivision as "old facility", located within the state, which
188 the taxpayer or a related taxpayer previously operated but discontinued operating on or before
189 the close of the first taxable year for which the credit allowed by this section is claimed. A new
190 facility shall be deemed to replace an old facility if the following conditions are met:

191 (a) The old facility was operated by the taxpayer or a related taxpayer during the
192 taxpayer's or related taxpayer's taxable period immediately preceding the taxable year in which
193 commencement of commercial operations occurs at the new facility; and

194 (b) The old facility was employed by the taxpayer or a related taxpayer in the operation
195 of an enhanced business enterprise and the taxpayer continues the operation of the same or

196 substantially similar enhanced business enterprise at the new facility. Notwithstanding the
197 preceding provisions of this subdivision, a facility shall not be considered a replacement business
198 facility if the taxpayer's new business facility investment, as computed in subdivision (19) of this
199 section, in the new facility during the tax period for which the credits allowed in section 135.967
200 are claimed exceed one million dollars and if the total number of employees at the new facility
201 exceeds the total number of employees at the old facility by at least two;

202 (28) "Same or substantially similar enhanced business enterprise", an enhanced business
203 enterprise in which the nature of the products produced or sold, or activities conducted, are
204 similar in character and use or are produced, sold, performed, or conducted in the same or similar
205 manner as in another enhanced business enterprise.

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