

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 1675

95TH GENERAL ASSEMBLY

4083L.03P

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

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

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*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  
2 known as section 620.1910, to read as follows:

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

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

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

7 **(2) "Department", the department of economic development;**

8 **(3) "Employee" or "employees", a person or persons employed by a qualified  
9 manufacturing facility or qualified supplier;**

10 **(4) "NAICS", the 1997 edition of the North American Industry Classification  
11 System as prepared by the Executive Office of the President, Office of Management and  
12 Budget;**

13 **(5) "New job", the number of full-time employees located at the project facility that  
14 exceeds the project facility base employment less any decrease in the number of full-time  
15 employees at related facilities below the related facility base employment. No job that was  
16 created prior to the date of the notice of intent shall be deemed a new job. An employee  
17 that spends less than fifty percent of the employee's work time at the facility is still  
18 considered to be located at a facility if the employee receives his or her directions and**

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.

19 control from that facility, is on the facility's payroll, one hundred percent of the employee's  
20 income from such employment is Missouri income, and the employee is paid at or above  
21 the industry average wage for Missouri as determined by the department using NAICS  
22 industry classifications;

23 (6) "Notice of intent", a form developed by the department, completed by the  
24 qualified manufacturing facility or qualified supplier and submitted to the department  
25 which states the qualified manufacturing facility's or qualified supplier's intent to hire new  
26 jobs or retain current jobs and request benefits under this section;

27 (7) "Qualified manufacturing facility", a business that:

28 (a) Manufactures goods in Missouri;

29 (b) Derives more than ten percent of total sales revenues of the facility from goods  
30 produced at the facility which are exported outside the United States or sold to the federal  
31 government for export outside the United States or that derives more than twenty percent  
32 of all total sales revenues of the facility from goods produced at the facility which are  
33 exported outside the state of Missouri;

34 (c) Makes an additional capital investment of at least fifty thousand dollars per full-  
35 time employee equivalent retained at the facility;

36 (d) Manufactures a new product that has not been manufactured in Missouri by  
37 the company that owns the facility at any time prior to the date of the notice of intent; and

38 (e) Continues to manufacture such goods meeting paragraphs (a) to (d) of this  
39 subdivision for a period of at least five years from the date of the notice of intent;

40 (8) "Qualified supplier", a company that:

41 (a) Derives more than ten percent of the total annual revenues of the company from  
42 sales to a qualified manufacturing facility;

43 (b) Adds five or more new jobs;

44 (c) Pays wages for such new jobs that are equal to or exceed industry average wage  
45 for Missouri as determined by the department using NAICS industry classifications; and

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

48 (9) "Retained job", the number of full-time employees located at the project facility  
49 that existed in the taxable year immediately preceding the year in which application for the  
50 program is made;

51 (10) "Taxpayer", any individual or entity subject to the tax imposed in chapter 143,  
52 excluding withholding tax imposed by sections 143.191 to 143.265, or the tax imposed in  
53 chapter 147, 148, or 153;

54 (11) "Withholding tax", the state tax imposed by sections 143.191 to 143.265.

55           **3. The department shall respond within thirty days to a qualified manufacturing**  
56 **facility or a qualified supplier who provides a notice of intent to receive benefits under this**  
57 **section with either an approval or a rejection of the notice of intent. Failure to respond on**  
58 **behalf of the department shall result in the notice of intent being deemed an approval for**  
59 **the purposes of this section. A qualified manufacturing facility or qualified supplier who**  
60 **is provided an approval shall be allowed a benefit as provided in this section.**

61           **4. A qualified manufacturing facility may, upon approval of a notice of intent by**  
62 **the department, retain fifty percent of the withholding tax from retained jobs for a period**  
63 **of ten years. The method of determining the amount to be withheld shall be prescribed by**  
64 **regulations of the department. Such qualified manufacturing facility shall be eligible for**  
65 **participation in the Missouri quality jobs program in sections 620.1875 to 620.1890,**  
66 **provided the facility meets all qualifications for that program, for all new jobs created at**  
67 **the qualified manufacturing facility.**

68           **5. A qualified supplier may, upon approval of a notice of intent by the department,**  
69 **retain all withholding tax from new jobs for a period of three years from the date of**  
70 **approval of the notice of intent or a qualified supplier may retain all withholding tax from**  
71 **new jobs for a period of five years if the supplier pays wages for the new jobs equal to or**  
72 **greater than one hundred twenty percent of industry average wage for Missouri as**  
73 **determined by the department using NAICS industry classifications.**

74           **6. The total aggregate amount of retained withholding tax authorized under this**  
75 **section shall not exceed thirty-five million dollars per year.**

76           **7. Notwithstanding any provision of law to the contrary, any qualified**  
77 **manufacturing facility that is awarded benefits under this section shall not simultaneously**  
78 **receive tax credits or exemptions under sections 135.100 to 135.150, sections 135.200 to**  
79 **135.286, section 135.535, or sections 135.900 to 135.906. The benefits available to the**  
80 **qualified manufacturing facility under any other state programs for which the qualified**  
81 **manufacturing facility is eligible and which utilize withholding tax from the new jobs of**  
82 **the qualified manufacturing facility shall first be credited to the other state program before**  
83 **the withholding retention level applicable under this section will begin to accrue. These**  
84 **other state programs include, but are not limited to, the new jobs training program under**  
85 **sections 178.892 to 178.896, the job retention program under sections 178.760 to 178.764,**  
86 **the real property tax increment allocation redevelopment act, sections 99.800 to 99.865, or**  
87 **the Missouri downtown and rural economic stimulus act under sections 99.915 to 99.980.**  
88 **If any qualified manufacturing facility also participates in the new jobs training program**  
89 **in sections 178.892 to 178.896, such qualified manufacturing facility shall not retain any**  
90 **withholding tax that has already been allocated for use in the new jobs training program.**

91 Any taxpayer who is awarded benefits under this program who knowingly hires  
92 individuals who are not allowed to work legally in the United States shall immediately  
93 forfeit such benefits and shall repay the state an amount equal to any withholding taxes  
94 already retained. Subsection 5 of section 285.530 shall not apply to taxpayers awarded  
95 benefits under this program.

96 8. The department may promulgate rules to implement the provisions of this  
97 section. Any rule or portion of a rule, as that term is defined in section 536.010, that is  
98 created under the authority delegated in this section shall become effective only if it  
99 complies with and is subject to all of the provisions of chapter 536 and, if applicable,  
100 section 536.028. This section and chapter 536 are nonseverable and if any of the powers  
101 vested with the general assembly under chapter 536 to review, to delay the effective date,  
102 or to disapprove and annul a rule are subsequently held unconstitutional, then the grant  
103 of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be  
104 invalid and void.

105 9. Under section 23.253, of the Missouri sunset act:

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

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

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

114 10. If a qualified manufacturing facility or qualified supplier fails to comply with  
115 all provisions of this section, the department shall issue a final decision to that effect and  
116 such facility or supplier shall repay all benefits previously obtained from the state with  
117 interest of five percent per annum from the date the benefit was originally received by such  
118 facility or supplier. A final decision of the department under this subsection shall be  
119 subject to review by the administrative hearing commission under the provisions of  
120 chapter 621 and may be further appealed as provided by law.

121 11. Prior to March first each year, the department shall provide a report to the  
122 general assembly including the names of participating qualified manufacturing facilities  
123 or qualified suppliers, location of such facilities or suppliers, the annual amount of benefits  
124 provided, the estimated net state fiscal impact (direct and indirect new state taxes derived),  
125 and the number of new jobs created or jobs retained.

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