

SECOND REGULAR SESSION

HOUSE BILL NO. 1455

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES GATSCHENBERGER (Sponsor), TALBOY, JONES (89),
NOLTE, McCAHERTY, LONG, TILLEY, JONES (63), COLONA, ATKINS, TAYLOR,
McMANUS AND WEBBER (Co-sponsors).

5434H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 620.478 and 620.1910, RSMo, and to enact in lieu thereof two new sections relating to the manufacturing jobs act.

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

Section A. Sections 620.478 and 620.1910, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 620.478 and 620.1910, to read as follows:

620.478. 1. There is hereby established in the state treasury a special fund to be known
2 as the "Missouri Job Development Fund". The fund shall consist of all moneys which may be
3 appropriated to it by the general assembly and also any gifts, contributions, grants or bequests
4 received from federal, private or other sources. Appropriations made from the fund shall be for
5 the purpose of providing contractual services through the department of elementary and
6 secondary education for vocational related training or retraining provided by public or private
7 training institutions within Missouri; and for contracted services through the department of
8 economic development for vocational related training or retraining provided by public or private
9 training institutions located outside of Missouri; and for vocational related training or retraining
10 provided on site, within Missouri, by any proprietorship, partnership or corporate entity. Except
11 for state-sponsored preemployment training, no applicant shall receive more than fifty percent
12 of its project training or retraining costs from the development fund. Moneys to operate the new
13 or expanding industry training program, the basic industry retraining program, the industry
14 quality and productivity improvement program and assistance to community college business and
15 technology centers shall be obtained from appropriations made by the general assembly from the

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.

16 fund. No funds shall be awarded or reimbursed to any industry for the training, retraining or
17 upgrading of skills of potential employees with the purpose of replacing or supplanting
18 employees engaged in an authorized work stoppage. **The department shall make efforts to**
19 **prioritize the use of funding available under this section to assist qualified suppliers, as**
20 **such term is defined under section 620.1910.**

21 2. The Missouri job development fund shall be able to receive any block grant or other
22 sources of funding relating to job training, school-to-work transition, welfare reform, vocational
23 and technical training, housing, infrastructure development and human resource investment
24 programs which may be provided by the federal government or other sources.

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

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

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

6 (2) "Capital investment", expenditures made by a qualified manufacturing company to
7 retool or reconfigure a manufacturing facility directly related to the manufacturing of a new
8 product or the expansion or modification of the manufacture of an existing product;

9 (3) "County average wage", the same meaning as such term is defined in section
10 620.1878;

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

12 (5) "Facility", a building or buildings located in Missouri at which the qualified
13 manufacturing company **or qualified supplier** manufactures a product;

14 (6) **"Facility investment", the value of real and depreciable tangible personal**
15 **property, acquired by the qualified supplier as part of the supplier's manufacturing**
16 **facility, which is used by such supplier in the operation of such facility, except that trucks,**
17 **truck-trailers, truck semitrailers, rail vehicles, barge vehicles, aircraft and other rolling**
18 **stock for hire, track, switches, barges, bridges, tunnels, and rail yards and spurs shall not**
19 **constitute new business facility investments. The total value of such property during such**
20 **taxable year shall be:**

21 (a) **Its original cost if owned by the qualified supplier; or**

22 (b) **Eight times the net annual rental rate, if leased by the qualified supplier. The**
23 **net annual rental rate shall be the annual rental rate paid by the qualified supplier less any**
24 **annual rental rate received by the qualified supplier from subrentals. The facility**
25 **investment shall be determined by dividing by twelve the sum of the total value of such**
26 **property on the last business day of each calendar month of the taxable year. If the facility**
27 **is in operation for less than an entire taxable year, the facility investment shall be**

28 **determined by dividing the sum of the total value of such property on the last business day**
29 **of each full calendar month during the portion of such taxable year during which the**
30 **facility was in operation by the number of full calendar months during such period;**

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

35 [(7)] (8) "NAICS industry classification", the most recent edition of the North American
36 Industry Classification System as prepared by the Executive Office of the President, Office of
37 Management and Budget;

38 [(8)] (9) "New job", the same meaning as such term is defined in section 620.1878;

39 (10) "New payroll", the same meaning as such term is defined in section 620.1878;

40 [(9)] (11) "New product", a new model or line of a manufactured good that has not been
41 manufactured in Missouri by the qualified manufacturing company at any time prior to the date
42 of the notice of intent, or an existing brand, model, or line of a manufactured good that is
43 redesigned with more than seventy-five percent new exterior body parts and incorporates new
44 powertrain options;

45 [(10)] (12) "Notice of intent", a form developed by the department, completed by the
46 qualified manufacturing company or qualified supplier and submitted to the department which
47 states the qualified manufacturing company's or qualified supplier's intent to create new jobs or
48 retain current jobs and make additional capital investment, as applicable, and request benefits
49 under this section. The notice of intent shall specify the minimum number of such new or
50 retained jobs and the minimum amount of such capital investment;

51 (13) "Project facility", the building or buildings used by a qualified supplier at
52 which new jobs and any facility investment are or will be located. A project facility may
53 include separate buildings located within sixty miles of each other such that their purpose
54 and operations are interrelated; provided, that where the buildings making up the project
55 facility are not located within the same county, the average wage of the new jobs must
56 exceed the highest county average wage among the counties in which the buildings are
57 located. Upon approval by the department, a subsequent project facility may be
58 designated if the qualified supplier demonstrates a need to relocate to the subsequent
59 project facility at any time during the project period;

60 [(11)] (14) "Qualified manufacturing company", a business with a NAICS code of 33611
61 that:

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

63 (b) In the case of the manufacture of a new product, commits to make a capital
64 investment of at least seventy-five thousand dollars per retained job within no more than two
65 years of the date the qualified manufacturing company begins to retain withholding tax under this
66 section, or in the case of the modification or expansion of the manufacture of an existing product,
67 commits to make a capital investment of at least fifty thousand dollars per retained job within
68 no more than two years of the date the qualified manufacturing company begins to retain
69 withholding tax under this section;

70 (c) Manufactures a new product or has commenced making capital improvements to the
71 facility necessary for the manufacturing of such new product, or modifies or expands the
72 manufacture of an existing product or has commenced making capital improvements to the
73 facility necessary for the modification or expansion of the manufacture of such existing product;
74 and

75 (d) Continues to meet the requirements of paragraphs (a) to (c) of this subdivision for
76 the withholding period;

77 [(12)] **(15)** "Qualified supplier", a manufacturing company that:

78 (a) [Attests to the department that it derives more than ten percent of the total annual
79 sales of the company from sales to a qualified manufacturing company;

80 (b) Adds] **Manufactures goods at a facility in Missouri at which it adds:**

81 a. Five or more new jobs; or

82 b. **Two or more new jobs and makes no less than one hundred thousand dollars in**
83 **facility investment;**

84 [(c)] **(b)** Has an average wage, as defined in section 135.950, for such new jobs that are
85 equal to or exceed the lower of the county average wage for Missouri as determined by the
86 department using NAICS industry classifications, but not lower than sixty percent of the
87 statewide average wage; [and

88 (d)] **(c)** Provides health insurance for all full-time jobs and pays at least fifty percent of
89 the premiums of such insurance; **and**

90 **(d) Attests to the department that it derives more than:**

91 a. **Ten percent of the total annual sales of the company from sales to a qualified**
92 **manufacturing company;**

93 b. **Ten percent of the total annual sales of the company from sales of a product**
94 **which ultimately becomes a component of a finished product of a manufacturer with a**
95 **NAICS code of 33611; or**

96 c. **Fifty percent of the total annual sales of the company from the modification of**
97 **a finished product of a manufacturer with a NAICS code of 33611, for commercial or**
98 **public use, under certification from such manufacturer;**

99 [(13)] (16) "Retained job", the number of full-time jobs of persons employed by the
100 qualified manufacturing company located at the facility that existed as of the last working day
101 of the month immediately preceding the month in which notice of intent is submitted;

102 [(14)] (17) "Statewide average wage", an amount equal to the quotient of the sum of the
103 total gross wages paid for the corresponding four calendar quarters divided by the average annual
104 employment for such four calendar quarters, which shall be computed using the Quarterly
105 Census of Employment and Wages Data for All Private Ownership Businesses in Missouri, as
106 published by the Bureau of Labor Statistics of the United States Department of Labor;

107 [(15)] (18) "Withholding period", the seven- or ten-year period in which a qualified
108 manufacturing company may receive benefits under this section;

109 [(16)] (19) "Withholding tax", the same meaning as such term is defined in section
110 620.1878.

111 3. The department shall respond within thirty days to a qualified manufacturing company
112 or a qualified supplier who provides a notice of intent with either an approval or a rejection of
113 the notice of intent. Failure to respond on behalf of the department shall result in the notice of
114 intent being deemed an approval for the purposes of this section.

115 4. A qualified manufacturing company that manufactures a new product may, upon the
116 department's approval of a notice of intent and the execution of an agreement that meets the
117 requirements of subsection 9 of this section, but no earlier than January 1, 2012, retain one
118 hundred percent of the withholding tax from full-time jobs at the facility for a period of ten years.
119 A qualified manufacturing company that modifies or expands the manufacture of an existing
120 product may, upon the department's approval of a notice of intent and the execution of an
121 agreement that meets the requirements of subsection 9 of this section, but no earlier than
122 January 1, 2012, retain fifty percent of the withholding tax from full-time jobs at the facility for
123 a period of seven years. Except as otherwise allowed under subsection 7 of this section, the
124 commencement of the withholding period may be delayed by no more than twenty-four months
125 after execution of the agreement at the option of the qualified manufacturing company. Such
126 qualified manufacturing company shall be eligible for participation in the Missouri quality jobs
127 program in sections 620.1875 to 620.1890 for any new jobs for which it does not retain
128 withholding tax under this section, provided all qualifications for such program are met.

129 5. A qualified supplier may, upon approval of a notice of intent by the department, retain
130 [all withholding tax from new jobs for a period of three years from the date of approval of the
131 notice of intent or for a period of five years if the supplier pays wages for the new jobs equal to
132 or greater than one hundred twenty percent of county average wage] **an amount equal to a**
133 **maximum of five and one-half percent of new payroll for a period of five years from the**
134 **date the required number of jobs were created in this state from the withholding tax of the**

135 **new jobs that would otherwise be withheld and remitted by the qualified supplier, if the**
136 **average wage of the new jobs equals or exceeds the county average wage. An additional**
137 **one-half percent of new payroll may be added to the five and one-half percent maximum,**
138 **if the average wage of the new jobs in any year exceeds one hundred twenty percent of the**
139 **county average wage in the county in which the project facility is located, plus an**
140 **additional one-half percent of new payroll may be added, if the average wage of the new**
141 **jobs in any year exceeds one hundred forty percent of the average wage in the county in**
142 **which the project facility is located. The department shall issue a refundable tax credit for**
143 **any difference between the amount of benefit allowed under this subsection and the**
144 **amount of withholding tax retained by the qualified supplier, in the event the withholding**
145 **tax is not sufficient to provide the entire amount of benefit due to the qualified supplier**
146 **under this subsection. Any tax credits issued under this subsection shall be subject to the**
147 **provisions of subsections 6 to 12 of section 620.1881.** Notwithstanding any other provision
148 of law to the contrary, a qualified supplier that is awarded benefits under this section shall not
149 receive any tax credit or exemption or be entitled to retain withholding under sections 100.700
150 to 100.850, sections 135.100 to 135.150, sections 135.200 to 135.286, section 135.535, sections
151 135.900 to 135.906, sections 135.950 to 135.970, or section 620.1881 for the same jobs.

152 6. Notwithstanding any other provision of law to the contrary, the maximum amount of
153 withholding tax that may be retained by any one qualified manufacturing company under this
154 section shall not exceed ten million dollars per calendar year. The aggregate amount of
155 withholding tax that may be retained by all qualified manufacturing companies under this section
156 shall not exceed fifteen million dollars per calendar year.

157 7. Notwithstanding any other provision of law to the contrary, any qualified
158 manufacturing company that is awarded benefits under this section shall not simultaneously
159 receive tax credits or exemptions under sections 100.700 to 100.850, sections 135.100 to
160 135.150, sections 135.200 to 135.286, section 135.535, or sections 135.900 to 135.906 for the
161 jobs created or retained or capital improvement which qualified for benefits under this section.
162 The benefits available to the qualified manufacturing company under any other state programs
163 for which the qualified manufacturing company is eligible and which utilize withholding tax
164 from the jobs at the facility shall first be credited to the other state program before the applicable
165 withholding period for benefits provided under this section shall begin. These other state
166 programs include, but are not limited to, the new jobs training program under sections 178.892
167 to 178.896, the job retention program under sections 178.760 to 178.764, the real property tax
168 increment allocation redevelopment act under sections 99.800 to 99.865, or the Missouri
169 downtown and rural economic stimulus act under sections 99.915 to 99.980. If any qualified
170 manufacturing company also participates in the new jobs training program in sections 178.892

171 to 178.896, such qualified manufacturing company shall not retain any withholding tax that has
172 already been allocated for use in the new jobs training program. **If any qualified supplier also**
173 **participates in the new jobs training program in sections 178.892 to 178.896, the company**
174 **shall retain no withholding tax, but the department shall issue a refundable tax credit for**
175 **the full amount of benefit allowed under this section. The calendar year annual maximum**
176 **amount of tax credits which may be issued to a qualified supplier that also participates in**
177 **the new job training program shall be increased by an amount equivalent to the**
178 **withholding tax retained by that company under the new jobs training program. However,**
179 **if the combined benefits of this program and the new jobs training program exceed the**
180 **projected state benefit of the project, as determined by the department through a cost-**
181 **benefit analysis, the increase in the maximum tax credits shall be limited to the amount**
182 **that would not cause the combined benefits to exceed the projected state benefit.** Any
183 qualified manufacturing company or qualified supplier that is awarded benefits under this
184 program and knowingly hires individuals who are not allowed to work legally in the United
185 States shall immediately forfeit such benefits and shall repay the state an amount equal to any
186 withholding taxes already retained. Subsection 5 of section 285.530 shall not apply to qualified
187 manufacturing companies or qualified suppliers which are awarded benefits under this program.

188 8. The department may promulgate rules to implement the provisions of this section.
189 Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the
190 authority delegated in this section shall become effective only if it complies with and is subject
191 to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and
192 chapter 536 are nonseverable and if any of the powers vested with the general assembly under
193 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
194 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed
195 or adopted after the effective date of this section shall be invalid and void.

196 9. Within six months of completion of a notice of intent required under this section, the
197 qualified manufacturing company shall enter into an agreement with the department that
198 memorializes the content of the notice of intent, the requirements of this section, and the
199 consequences for failing to meet such requirements, which shall include the following:

200 (1) If the amount of capital investment made by the qualified manufacturing company
201 is not made within the two-year period provided for such investment, the qualified manufacturing
202 company shall immediately cease retaining any withholding tax with respect to jobs at the facility
203 and it shall forfeit all rights to retain withholding tax for the remainder of the withholding period.
204 In addition, the qualified manufacturing company shall repay any amounts of withholding tax
205 retained plus interest of five percent per annum. However, in the event that such capital
206 investment shortfall is due to economic conditions beyond the control of the qualified

207 manufacturing company, the director may, at the qualified manufacturing company's request,
208 suspend rather than terminate its privilege to retain withholding tax under this section for up to
209 three years. Any such suspension shall extend the withholding period by the same amount of
210 time. No more than one such suspension shall be granted to a qualified manufacturing company;

211 (2) If the qualified manufacturing company discontinues the manufacturing of the new
212 product and does not replace it with a subsequent or additional new product manufactured at the
213 facility at any time during the withholding period, the qualified manufacturing company shall
214 immediately cease retaining any withholding tax with respect to jobs at that facility and it shall
215 forfeit all rights to retain withholding tax for the remainder of the withholding period.

216 10. Prior to March first each year, the department shall provide a report to the general
217 assembly including the names of participating qualified manufacturing companies or qualified
218 suppliers, location of such companies or suppliers, the annual amount of benefits provided, the
219 estimated net state fiscal impact including direct and indirect new state taxes derived, and the
220 number of new jobs created or jobs retained.

221 11. Under section 23.253 of the Missouri sunset act:

222 (1) The provisions of the new program authorized under this section shall automatically
223 sunset October 12, 2016, unless reauthorized by an act of the general assembly; and

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

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

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