

SENATE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NOS. 1194 & 1193

AN ACT

To repeal sections 285.055, 288.062, and 290.528, RSMo, and to enact in lieu thereof two new sections relating to the minimum wage, with an emergency clause.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1 Section A. Sections 285.055, 288.062, and 290.528, RSMo,
2 are repealed and two new sections enacted in lieu thereof, to be
3 known as sections 288.062 and 290.528, to read as follows:

4 288.062. 1. As used in this section, unless the context
5 clearly requires otherwise:

6 (1) "Extended benefit period" means a period which begins
7 with the third week after a week for which there is a state "on"
8 indicator, and ends with either of the following weeks, whichever
9 occurs later:

10 (a) The third week after the first week for which there is
11 a state "off" indicator; or

12 (b) The thirteenth consecutive week of such period;
13 provided, that no extended benefit period may begin by reason of
14 a state "on" indicator before the fourteenth week following the
15 end of a prior extended benefit period which was in effect with
16 respect to this state;

17 (2) There is a "state 'on' indicator" for this state for a

1 week if the director determines, in accordance with the
2 regulations of the United States Secretary of Labor, that for the
3 period consisting of such week and the immediately preceding
4 twelve weeks, the rate of insured unemployment (not seasonally
5 adjusted) under this law:

6 (a) a. Equaled or exceeded one hundred twenty percent of
7 the average of such rates for the corresponding thirteen-week
8 period ending in each of the preceding two calendar years; and

9 b. Equaled or exceeded four percent for weeks beginning
10 prior to or on September 25, 1982, or five percent for weeks
11 beginning after September 25, 1982; except that, if the rate of
12 insured unemployment as contemplated in this subdivision equals
13 or exceeds five percent for weeks beginning prior to or on
14 September 25, 1982, or six percent for weeks beginning after
15 September 25, 1982, the determination of an "on" indicator shall
16 be made under this subdivision as if this subdivision did not
17 contain the provisions of subparagraph a. of paragraph (a) of
18 this subdivision; or

19 (b) With respect to weeks of unemployment beginning on or
20 after February 1, 2009, and ending on or before the week ending
21 four weeks prior to the last week of unemployment for which one
22 hundred percent federal sharing is available under the provisions
23 of Public Law 111-5, Section 2005(a) or August 28, 2013,
24 whichever should occur first:

25 a. The average rate of total unemployment in the state
26 (seasonally adjusted), as determined by the United States
27 Secretary of Labor, for the period consisting of the most recent
28 three months for which data for all states are published before

1 the close of such week equals or exceeds six and one-half
2 percent; and

3 b. The average rate of total unemployment in the state
4 (seasonally adjusted), as determined by the United States
5 Secretary of Labor, for the three-month period referred to in
6 subparagraph a. of this paragraph, equals or exceeds one hundred
7 and ten percent of such average for either or both of the
8 corresponding three-month periods ending in the two preceding
9 calendar years; or

10 c. Effective with respect to compensation for weeks of
11 unemployment beginning after the date of enactment of the Tax
12 Relief, Unemployment Insurance Reauthorization, and Job Creation
13 Act of 2010, Public Law 111-312, and ending on or before the last
14 day allowable by the Tax Relief, Unemployment Insurance
15 Reauthorization, and Job Creation Act of 2010, the average rate
16 of total unemployment in the state (seasonally adjusted), as
17 determined by the United States Secretary of Labor, for the
18 three-month period referred to in subparagraph a. of this
19 paragraph, equals or exceeds one hundred and ten percent of such
20 average for any or all of the corresponding three-month periods
21 ending in the three preceding calendar years;

22 (3) There is a "state 'off' indicator" for this state for a
23 week if the director determines, in accordance with the
24 regulations of the United States Secretary of Labor, that for the
25 period consisting of such week and the immediately preceding
26 twelve weeks, the rate of insured unemployment (not seasonally
27 adjusted) under this law:

28 (a) Was less than one hundred twenty percent of the average

1 of such rates for the corresponding thirteen-week period ending
2 in each of the preceding two calendar years; or

3 (b) Was less than four percent (five percent for weeks
4 beginning after September 25, 1982); except, there shall not be
5 an "off" indicator for any week in which an "on" indicator as
6 contemplated in subparagraph b. of paragraph (a) of subdivision
7 (2) of this subsection exists;

8 (4) "Rate of insured unemployment", for the purposes of
9 subdivisions (2) and (3) of this subsection, means the percentage
10 derived by dividing:

11 (a) The average weekly number of individuals filing claims
12 for regular compensation in this state for weeks of unemployment
13 with respect to the most recent thirteen-consecutive-week period,
14 as determined by the director on the basis of his or her reports
15 to the United States Secretary of Labor, by

16 (b) The average monthly employment covered under this law
17 for the first four of the most recent six completed calendar
18 quarters ending before the end of such thirteen-week period;

19 (5) "Regular benefits" means benefits payable to an
20 individual under this law or under any other state law (including
21 benefits payable to federal civilian employees and ex-servicemen
22 pursuant to 5 U.S.C. Chapter 85) other than extended benefits;

23 (6) "Extended benefits" means benefits (including benefits
24 payable to federal civilian employees and to ex-servicemen
25 pursuant to 5 U.S.C. Chapter 85) payable to an individual under
26 the provisions of this section for weeks of unemployment in his
27 or her eligibility period;

28 (7) "Eligibility period" of an individual means the period

1 consisting of the weeks in his or her benefit year which begin in
2 an extended benefit period and, if his or her benefit year ends
3 within such extended benefit period, any weeks thereafter which
4 begin in such period;

5 (8) "Exhaustee" means an individual who, with respect to
6 any week of unemployment in his or her eligibility period:

7 (a) Has received, prior to such week, all of the regular
8 benefits that were available to him or her under this law or any
9 other state law (including dependents' allowances and benefits
10 payable to federal civilian employees and ex-servicemen under 5
11 U.S.C. Chapter 85) in his or her current benefit year that
12 includes such week; provided, that, for the purposes of this
13 paragraph, an individual shall be deemed to have received all of
14 the regular benefits that were available to him or her although
15 as a result of a pending appeal with respect to wages or
16 employment, or both, that were not considered in the original
17 monetary determination in his or her benefit year, he may
18 subsequently be determined to be entitled to added regular
19 benefits; or

20 (b) Has received, prior to such week, all the regular
21 compensation available to him or her in his or her current
22 benefit year that includes such week under the unemployment
23 compensation law of the state in which he or she files a claim
24 for extended compensation or the unemployment compensation law of
25 any other state after a cancellation of some or all of his or her
26 wage credits or the partial or total reduction of his or her
27 right to regular compensation; or

28 (c) His or her benefit year having expired prior to such

1 week, he or she has insufficient wages or employment, or both, on
2 the basis of which he or she could establish in any state a new
3 benefit year that would include such week, or having established
4 a new benefit year that includes such week, he or she is
5 precluded from receiving regular compensation by reason of a
6 state law provision which meets the requirement of section
7 3304(a)(7) of the Internal Revenue Code of 1954; and

8 (d) a. Has no right to unemployment benefits or
9 allowances, as the case may be, under the Railroad Unemployment
10 Insurance Act, the Trade Expansion Act of 1962, the Automotive
11 Products Trade Act of 1965 and such other federal laws as are
12 specified in regulations issued by the United States Secretary of
13 Labor; and

14 b. Has not received and is not seeking unemployment
15 benefits under the unemployment compensation law of Canada; but
16 if he or she is seeking such benefits and the appropriate agency
17 finally determines that he or she is not entitled to benefits
18 under such law he or she is considered an exhaustee;

19 (9) "State law" means the unemployment insurance law of any
20 state, approved by the United States Secretary of Labor under
21 Section 3304 of the Internal Revenue Code of 1954.

22 2. Except when the result would be inconsistent with the
23 other provisions of this section, as provided in the regulations
24 of the director, the provisions of this law which apply to claims
25 for, or the payment of, regular benefits shall apply to claims
26 for, and the payment of, extended benefits.

27 3. An individual shall be eligible to receive extended
28 benefits with respect to any week of unemployment in his or her

1 eligibility period only if the deputy finds that with respect to
2 such week:

3 (1) He or she is an exhaustee as defined in subdivision (8)
4 of subsection 1 of this section;

5 (2) He or she has satisfied the requirements of this law
6 for the receipt of regular benefits that are applicable to
7 individuals claiming extended benefits, including not being
8 subject to a disqualification for the receipt of benefits; except
9 that, in the case of a claim for benefits filed in another state,
10 which is acting as an agent state under the Interstate Benefits
11 Payment Plan as provided by regulation, which claim is based on
12 benefit credits accumulated in this state, eligibility for
13 extended benefits shall be limited to the first two compensable
14 weeks unless there is an extended benefit period in effect in
15 both this state and the agent state in which the claim was filed;

16 (3) The other provisions of this law notwithstanding, as to
17 new extended benefit claims filed after September 25, 1982, an
18 individual shall be eligible to receive extended benefits with
19 respect to any week of unemployment in his or her eligibility
20 period only if the deputy finds that the total wages in the base
21 period of his or her benefit year equal at least one and one-half
22 times the wages paid during that quarter of his or her base
23 period in which his or her wages were highest.

24 4. A claimant shall not be eligible for extended benefits
25 following any disqualification imposed under subsection 1 or 2 of
26 section 288.050, unless subsequent to the effective date of the
27 disqualification, the claimant has been employed during at least
28 four weeks and has earned wages equal to at least four times his

1 or her weekly benefit amount.

2 5. For the purposes of determining eligibility for extended
3 benefits, the term "suitable work" means any work which is within
4 such individual's capabilities except that, if the individual
5 furnishes satisfactory evidence that the prospects for obtaining
6 work in his or her customary occupation within a reasonably short
7 period are good, the determination of what constitutes suitable
8 work shall be made in accordance with the provisions of
9 subdivision (3) of subsection 1 of section 288.050. If a deputy
10 finds that a person who is claiming extended benefits has refused
11 to accept or to apply for suitable work, as defined in this
12 subsection, or has failed to actively engage in seeking work
13 subsequent to the effective date of his or her claim for extended
14 benefits, that person shall be ineligible for extended benefits
15 for the period beginning with the first day of the week in which
16 such refusal or failure occurred. That ineligibility shall
17 remain in effect until the person has been employed for at least
18 four weeks after the week in which the refusal or failure
19 occurred and has earned wages equal to at least four times his or
20 her weekly benefit amount.

21 6. Extended benefits shall not be denied under subsection 5
22 of this section to any individual for any week by reason of a
23 failure to accept an offer of or apply for suitable work if:

24 (1) The gross average weekly remuneration for such work
25 does not exceed the individual's weekly benefit amount plus the
26 amount of any supplemental unemployment benefits, as defined in
27 section 501(c)(17)(d) of the Internal Revenue Code, payable to
28 such individual for such week; or

1 (2) The position was not offered to such individual in
2 writing or was not listed with the state employment service; or

3 (3) If the remuneration for the work offered is less than
4 the minimum wage provided by Section 6(a)(1) of the Fair Labor
5 Standards Act of 1938, as amended, without regard to any
6 exemption or any applicable [state or local] minimum wage as
7 provided in Section 202(a)(3)(D)(iv)(II) of the Federal-State
8 Extended Unemployment Compensation Act of 1970, whichever is the
9 greater. Pursuant to section 290.528, a local minimum wage is
10 not authorized under state law.

11 7. For the purposes of this section, an individual shall be
12 considered as actively engaged in seeking work during any week
13 with respect to which the individual has engaged in a systematic
14 and sustained effort to obtain work as indicated by tangible
15 evidence which the individual provides to the division.

16 8. Extended benefits shall not be denied for failure to
17 apply for or to accept suitable work if such failure would not
18 result in a denial of benefits under subdivision (3) of
19 subsection 1 of section 288.050 to the extent that the provisions
20 of subdivision (3) of subsection 1 of section 288.050 are not
21 inconsistent with the provisions of subsections 5 and 6 of this
22 section.

23 9. The division shall refer any claimant entitled to
24 extended benefits under this law to any suitable work which meets
25 the criteria established in subsections 5 and 6 of this section.

26 10. Notwithstanding other provisions of this chapter to the
27 contrary, as to claims of extended benefits, subsections 4 to 9
28 of this section shall not apply to weeks of unemployment

1 beginning after March 6, 1993, and before January 1, 1995.
2 Entitlement to extended benefits for weeks beginning after March
3 6, 1993, and before January 1, 1995, shall be determined in
4 accordance with provisions of this chapter not excluded by this
5 subsection.

6 11. "Weekly extended benefit amount." The weekly extended
7 benefit amount payable to an individual for a week of total
8 unemployment in his or her eligibility period shall be an amount
9 equal to the weekly benefit amount payable to him or her during
10 his or her applicable benefit year, reduced by a percentage equal
11 to the percentage of the reduction in federal payments to states
12 under Section 204 of the Federal State Extended Unemployment
13 Compensation Act of 1970, in accord with any order issued under
14 any law of the United States. Such weekly benefit amount, if not
15 a multiple of one dollar, shall be reduced to the nearest lower
16 full dollar amount.

17 12. (1) "Total extended benefit amount." The total
18 extended benefit amount payable to any eligible individual with
19 respect to his or her applicable benefit year shall be the lesser
20 of the following amounts:

21 (a) Fifty percent of the total amount of regular benefits
22 which were payable to him or her under this law in his or her
23 applicable benefit year;

24 (b) Thirteen times his or her weekly benefit amount which
25 was payable to him or her under this law for a week of total
26 unemployment in the applicable benefit year.

27 (2) Notwithstanding subdivision (1) of this subsection,
28 during any fiscal year in which federal payments to states under

1 Section 204 of the Federal State Extended Unemployment
2 Compensation Act of 1970 are reduced under any order issued under
3 any law of the United States, the total extended benefit amount
4 payable to an individual with respect to his or her applicable
5 benefit year shall be reduced by an amount equal to the aggregate
6 of the reductions under subsection 11 of this section in the
7 weekly amounts paid to the individual.

8 (3) Notwithstanding the other provisions of this
9 subsection, if the benefit year of any individual ends within an
10 extended benefit period, the remaining balance of extended
11 benefits that such individual would, but for this subdivision, be
12 entitled to receive in that extended benefit period, with respect
13 to weeks of unemployment beginning after the end of the benefit
14 year, shall be reduced, but not below zero, by the product of the
15 number of weeks for which the individual received trade
16 readjustment allowances under the Trade Act of 1974, as amended,
17 within that benefit year, multiplied by the individual's weekly
18 benefit amount for extended benefits.

19 (4) (a) Effective with respect to weeks beginning in a
20 high unemployment period, subdivision (1) of this subsection
21 shall be applied by substituting:

22 a. Eighty percent for fifty percent in paragraph (a) of
23 subdivision (1) of this subsection; and

24 b. Twenty times for thirteen times in paragraph (b) of
25 subdivision (1) of this subsection.

26 (b) For purposes of paragraph (a) of this subdivision, the
27 term "high unemployment period" means any period during which an
28 extended benefit period would be in effect if subparagraph a. of

1 paragraph (b) of subdivision (2) of subsection 1 of this section
2 were applied by substituting eight percent for six and one-half
3 percent.

4 13. (1) Whenever an extended benefit period is to become
5 effective in this state as a result of a state "on" indicator, or
6 an extended benefit period is to be terminated in this state as a
7 result of a state "off" indicator, the director shall make an
8 appropriate public announcement.

9 (2) Computations required by the provisions of subdivision
10 (4) of subsection 1 of this section shall be made by the
11 director, in accordance with regulations prescribed by the United
12 States Secretary of Labor.

13 290.528. [Any standards relating to minimum wages, maximum
14 hours, overtime compensation or other working conditions in
15 effect under any other law of this state on August 28, 1990,
16 which are more favorable to employees than those applicable to
17 employees under sections 290.500 to 290.530 or the regulations
18 issued under sections 290.500 to 290.530, shall not be deemed to
19 be amended, rescinded, or otherwise affected by sections 290.500
20 to 290.530 but shall continue in full force and effect and may be
21 enforced as provided by law.] 1. As used in this section, the
22 following terms shall mean:

23 (1) "Employee", an individual employed in this state by an
24 employer;

25 (2) "Employer", any individual, sole proprietorship,
26 partnership, limited liability company, corporation, or any other
27 entity that is legally doing business in this state; except that,
28 the term "employer" shall not include any public employer, as

1 defined in section 285.525;

2 (3) "Employment benefits", anything of value that an
3 employee may receive from an employer in addition to wages and
4 salary. The term includes, but is not limited to, health,
5 disability, retirement, profit-sharing, and death benefits; group
6 accidental death and dismemberment benefits; paid or unpaid days
7 off from work for holidays, sick leave, vacation, and personal
8 necessity; and terms of employment, attendance, or leave
9 policies;

10 (4) "Political subdivision", any municipality, special
11 district, local governmental body, county, city, town, or
12 village.

13 2. Notwithstanding any other provisions of law to the
14 contrary, no political subdivision shall establish, mandate, or
15 otherwise require an employer to provide to an employee:

16 (1) A minimum or living wage rate; or

17 (2) Employment benefits;

18
19 that exceed state laws, rules, or regulations. Sections 290.500
20 to 290.530 shall preempt and nullify all political subdivision
21 ordinances, rules, and regulations currently in effect or later
22 enacted relating to the establishment or enforcement of a minimum
23 or living wage or the provision of employment benefits that
24 exceed state laws, rules, or regulations.

25 [285.055. 1. As used in this section, the
26 following terms shall mean:

27 (1) "Employee", an individual employed in this
28 state by an employer;

29 (2) "Employer", any individual, sole
30 proprietorship, partnership, limited liability company,
31 corporation, or any other entity that is legally doing
32 business in this state; provided, however, that

1 employer shall not include any public employer as
2 defined in section 285.525;

3 (3) "Employment benefits", anything of value that
4 an employee may receive from an employer in addition to
5 wages and salary. The term includes, but is not
6 limited to, health, disability, retirement,
7 profit-sharing, and death benefits; group accidental
8 death and dismemberment benefits; paid or unpaid days
9 off from work for holidays, sick leave, vacation, and
10 personal necessity; and terms of employment,
11 attendance, or leave policies;

12 (4) "Political subdivision", any county, city,
13 town, or village.

14 2. No political subdivision shall establish,
15 mandate, or otherwise require an employer to provide to
16 an employee:

17 (1) A minimum or living wage rate; or

18 (2) Employment benefits;

19
20 that exceed the requirements of federal or state laws,
21 rules, or regulations. The provisions of this
22 subsection shall not preempt any state law or local
23 minimum wage ordinance requirements in effect on August
24 28, 2015.]

25
26 Section B. Because of the immediate need to protect the
27 economic environment in the state from significant fluctuations
28 and regulatory disparity, this act is deemed necessary for the
29 immediate preservation of the public health, welfare, peace, and
30 safety, and is hereby declared to be an emergency act within the
31 meaning of the constitution, and this act shall be in full force
32 and effect upon its passage and approval.