

SECOND REGULAR SESSION

HOUSE BILL NO. 1421

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES DEMPSEY (Sponsor), WILDBERGER, BLACK, SCHLOTTACH,
RICHARD, PEARCE, REINHART AND ERVIN (Co-sponsors).

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STEPHEN S. DAVIS, Chief Clerk

3484L.011

AN ACT

To amend chapter 178, RSMo, by adding thereto six new sections relating to job training for retained jobs.

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

Section A. Chapter 178, RSMo, is amended by adding thereto six new sections, to be
2 known as sections 178.980, 178.981, 178.982, 178.983, 178.984, and 178.985, to read as
3 follows:

178.980. As used in sections 178.980 to 178.985, the following terms mean:

2 **(1) "Agreement", the agreement between an employer and a junior college district**
3 **concerning a project. An agreement may be for a period not to exceed ten years when the**
4 **program services associated with a project are not in excess of five hundred thousand**
5 **dollars. For a project where the associated program costs are greater than five hundred**
6 **thousand dollars, the agreement may not exceed a period of eight years;**

7 **(2) "Board of trustees", the board of trustees of a junior college district;**

8 **(3) "Capital investment", an investment in research and development, working**
9 **capital, and real and tangible personal business property except inventory or property**
10 **intended for sale to customers. Trucks, truck trailers, truck semi-trailers, rail and barge**
11 **vehicles and other rolling stock for hire, track, switches, barges, bridges, tunnels, rail**
12 **yards, and spurs shall not qualify as a capital investment. The amount of such investment**
13 **shall be the original cost of the property if owned, or eight times the net annual rental rate**
14 **if leased;**

15 **(4) "Certificate", industrial retained jobs training certificates issued under section**
16 **178.983;**

17 **(5) "Date of commencement of the project", the date of the agreement;**

- 18 (6) "Employee", the person employed in a retained job;
- 19 (7) "Employer", the person maintaining retained jobs in conjunction with a
20 project;
- 21 (8) "Industry", a business located within this state which enters into an agreement
22 with a community college district and which is engaged in interstate or intrastate
23 commerce for the purpose of manufacturing, processing, or assembling products,
24 conducting research and development, or providing services in interstate commerce, but
25 excluding retail services;
- 26 (9) "Program costs", all necessary and incidental costs of providing program
27 services, including payment of the principal, premium, and interest on certificates,
28 including capitalized interest, issued to finance a project, funding and maintenance of a
29 debt service reserve fund to secure such certificates and wages, salaries and benefits of
30 employees participating in on-the-job training;
- 31 (10) "Program services" includes, but is not limited to, the following:
- 32 (a) Retained jobs training;
- 33 (b) Adult basic education and job-related instruction;
- 34 (c) Vocational and skill-assessment services and testing;
- 35 (d) Training facilities, equipment, materials, and supplies;
- 36 (e) On-the-job training;
- 37 (f) Administrative expenses equal to fifteen percent of the total training costs;
- 38 (g) Subcontracted services with state institutions of higher education, private
39 colleges or universities, or other federal, state, or local agencies;
- 40 (h) Contracted or professional services; and
- 41 (i) Issuance of certificates;
- 42 (11) "Project", a training arrangement which is the subject of an agreement
43 entered into between the community college district and an employer to provide program
44 services;
- 45 (12) "Retained job", a job in a stable industry, not including jobs for recalled
46 workers, which was in existence for at least two consecutive calendar years preceding the
47 year in which the application for the retained jobs training program was made;
- 48 (13) "Retained jobs credit from withholding", the credit as provided in section
49 178.982;
- 50 (14) "Retained jobs training program", or "program", the project or projects
51 established by a community college district for the retention of jobs, by providing
52 education and training of workers for existing jobs for stable industry in the state;
- 53 (15) "Stable industry", a business that otherwise meets the definition of industry

54 and retains existing jobs. To be a stable industry, the business shall have:

55 (a) Maintained at least one hundred employees per year at the employer's site in
56 the state at which the jobs are based, for each of the two calendar years preceding the year
57 in which application for the program is made;

58 (b) Retained at that site the level of employment that existed in the taxable year
59 immediately preceding the year in which application for the program is made; and

60 (c) Made or agree to make a capital investment aggregating at least three million
61 dollars to acquire or improve long-term assets (including leased facilities) such as property,
62 plant, or equipment (excluding program costs) at the employer's site in the state at which
63 jobs are based over a period of three consecutive calendar years, as certified by the
64 employer and:

65 a. Have made substantial investment in new technology requiring the upgrading
66 of worker's skills; or

67 b. Be located in a border county of the state and represent a potential risk of
68 relocation from the state; or

69 c. Be determined to represent a substantial risk of relocation from the state by the
70 director of the department of economic development;

71 (16) "Total training costs", costs of training, including supplies, wages and benefits
72 of instructors, subcontracted services, on-the-job training, training facilities, equipment,
73 skill assessment, and all program services excluding issuance of certificates.

178.981. A community college district, with the approval of the department of
2 economic development in consultation with the office of administration, may enter into an
3 agreement to establish a project and provide program services to an employer. As soon as
4 possible after initial contact between a community college district and a potential employer
5 regarding the possibility of entering into an agreement, the district shall inform the
6 division of workforce development of the department of economic development and the
7 office of administration about the potential project. The division of workforce
8 development shall evaluate the proposed project within the overall job training efforts of
9 the state to ensure that the project will not duplicate other job training programs. The
10 department of economic development shall have fourteen days from receipt of the
11 application to approve or disapprove projects. If no response is received by the community
12 college within fourteen days, the projects are approved. Any project that is disapproved
13 must be in writing stating the reasons for the disapproval. If an agreement is entered into,
14 the district and the employer shall notify the department of revenue within fifteen calendar
15 days. An agreement may provide, but is not limited to:

16 (1) Payment of program costs, including deferred costs, which may be paid from

17 one or a combination of the following sources:

18 (a) Funds appropriated by the general assembly from the Missouri community
19 college job retention program fund and disbursed by the division of workforce
20 development in respect of retained jobs credit from withholding to be received or derived
21 from retained employment resulting from the project;

22 (b) Tuition, student fees, or special charges fixed by the board of trustees to defray
23 program costs in whole or in part;

24 (c) Guarantee of payments to be received under paragraph (a) or (b) of this
25 subdivision;

26 (2) Payment of program costs shall not be deferred for a period longer than ten
27 years if program costs do not exceed five hundred thousand dollars, or eight years if
28 program costs exceed five hundred thousand dollars from the date of commencement of
29 the project;

30 (3) Costs of on-the-job training for employees shall include wages or salaries of
31 participating employees. Payments for on-the-job training shall not exceed the average of
32 fifty percent of the total percent of the total wages paid by the employer to each participant
33 during the period of training. Payment for on-the-job training may continue for up to six
34 months from the date of the employer's capital investment;

35 (4) A provision which fixes the minimum amount of retained jobs credit from
36 withholding, or tuition and fee payments which shall be paid for program costs;

37 (5) Any payment required to be made by an employer is a lien upon the employer's
38 business property until paid and has equal precedence with ordinary taxes and shall not
39 be divested by a judicial sale. Property subject to the lien may be sold for sums due and
40 delinquent at a tax sale, with the same forfeitures, penalties, and consequences as for the
41 nonpayment of ordinary taxes. The purchasers at tax sale obtain the property subject to
42 the remaining payments.

178.982. If an agreement provides that all or part of program costs are to be met
2 by receipt of retained jobs credit from withholding, such retained jobs credit from
3 withholding shall be determined and paid as follows:

4 (1) Retained jobs credit from withholding shall be based upon the wages paid to
5 the employees in the retained jobs;

6 (2) A portion of the total payments made by the employer under section 143.221,
7 RSMo, shall be designated as the retained jobs credit from withholding. Such portion shall
8 be an amount equal to two and one-half percent of the gross wages paid by the employer
9 for each of the first one hundred jobs included in the project and one and one-half percent
10 of the gross wages paid by the employer for each of the remaining jobs included in the

11 **project. If business or employment conditions cause the amount of the retained jobs credit**
12 **from withholding to be less than the amount projected in the agreement for any time**
13 **period, then other withholding tax paid by the employer under section 143.221, RSMo,**
14 **shall be credited to the Missouri junior college retained job training fund by the amount**
15 **of such difference. The employer shall remit the amount of the retained jobs credit to the**
16 **department of revenue in the manner prescribed in section 178.984. When all program**
17 **costs, including the principal, premium, and interest on the certificates have been paid, the**
18 **employer credits shall cease;**

19 **(3) The community college district participating in a project shall establish a special**
20 **fund for and in the name of the project. All funds appropriated by the general assembly**
21 **from the Missouri community college job training retention program fund and disbursed**
22 **by the division of workforce development for the project and other amounts received by**
23 **the district in respect of the project and required by the agreement to be used to pay**
24 **program costs for the project shall be deposited in the special fund. Amounts held in the**
25 **special fund may be used and disbursed by the district only to pay program costs for the**
26 **project. The special fund may be divided into such accounts and subaccounts as shall be**
27 **provided in the agreement, and amounts held therein may be invested in investments which**
28 **are legal for the investment of the district's other funds;**

29 **(4) Any disbursement in respect of a project received from the division of**
30 **workforce development under sections 178.980 to 178.985 and the special fund into which**
31 **it is paid may be irrevocably pledged by a junior college district for the payment of the**
32 **principal, premium, and interest on the certificate issued by a junior college district to**
33 **finance or refinance, in whole or in part, the project;**

34 **(5) The employer shall certify to the department of revenue that the credit from**
35 **withholding is in accordance with an agreement and shall provide other information the**
36 **department may require;**

37 **(6) An employee participating in a project will receive full credit for the amount**
38 **designated as a retained jobs credit from withholding and withheld as provided in section**
39 **143.221, RSMo;**

40 **(7) If an agreement provides that all or part of program costs are to be met by**
41 **receipt of retained jobs credit from withholding, the provisions of this subsection shall also**
42 **apply to any successor to the original employer until such time as the principal and interest**
43 **on the certificates have been paid.**

178.983. 1. To provide funds for the present payment of the costs of retained jobs
2 **training programs, a community college district may borrow money and issue and sell**
3 **certificates payable from a sufficient portion of the future receipts of payments authorized**

4 by the agreement including disbursements from the Missouri community college job
5 retention training program to the special fund established by the district for each project.
6 The total amount of outstanding certificates sold by all junior college districts shall not
7 exceed twenty-five million dollars, unless an increased amount is authorized in writing by
8 a majority of members of the Missouri job training joint legislative oversight committee.
9 The certificates shall be marketed through financial institutions authorized to do business
10 in Missouri. The receipts shall be pledged to the payment of principal of and interest on
11 the certificates. Certificates may be sold at public sale or at private sale at par, premium,
12 or discount of not less than ninety-five percent of the par value thereof, at the discretion
13 of the board of trustees, and may bear interest at such rate or rates as the board of trustees
14 shall determine, notwithstanding the provisions of section 108.170, RSMo, to the contrary.
15 However, chapter 176, RSMo, does not apply to the issuance of these certificates.
16 Certificates may be issued with respect to a single project or multiple projects and may
17 contain terms or conditions as the board of trustees may provide by resolution authorizing
18 the issuance of the certificates.

19 2. Certificates issued to refund other certificates may be sold at public sale or at
20 private sale as provided in this section with the proceeds from the sale to be used for the
21 payment of the certificates being refunded. The refunding certificates may be exchanged
22 in payment and discharge of the certificates being refunded, in installments at different
23 times or an entire issue or series at one time. Refunding certificates may be sold or
24 exchanged at any time on, before, or after the maturity of the outstanding certificates to
25 be refunded. They may be issued for the purpose of refunding a like, greater, or lesser
26 principal amount of certificates and may bear a higher, lower, or equivalent rate of interest
27 than the certificates being renewed or refunded.

28 3. Before certificates are issued, the board of trustees shall publish once a notice of
29 its intention to issue the certificates, stating the amount, the purpose, and the project or
30 projects for which the certificates are to be issued. A person may, within fifteen days after
31 the publication of the notice, by action in the circuit court of a county in the district, appeal
32 the decision of the board of trustees to issue the certificates. The action of the board of
33 trustees in determining to issue the certificates is final and conclusive unless the circuit
34 court finds that the board of trustees has exceeded its legal authority. An action shall not
35 be brought which questions the legality of the certificates, the power of the board of
36 trustees to issue the certificates, the effectiveness of any proceedings relating to the
37 authorization of the project, or the authorization and issuance of the certificates from and
38 after fifteen days from the publication of the notice of intention to issue.

39 4. The board of trustees shall make a finding based on information supplied by the

40 employer that revenues provided in the agreement are sufficient to secure the faithful
41 performance of obligations in the agreement.

42 **5. Certificates issued under this section shall not be deemed to be an indebtedness**
43 **of the state or the community college district or of any other political subdivision of the**
44 **state, and the principal and interest on such certificates shall be payable only from the**
45 **sources provided in subdivision (1) of section 178.981 which are pledged in the agreement.**

46 **6. The department of economic development shall coordinate the retained jobs**
47 **training program, and may promulgate rules that districts will use in developing projects**
48 **with industrial retained jobs training proposals which shall include rules providing for the**
49 **coordination of such proposals with the service delivery areas established in the state to**
50 **administer federal funds pursuant to the federal Workforce Investment Act. No rule or**
51 **portion of a rule promulgated pursuant to the authority of this section shall become**
52 **effective unless it has been promulgated pursuant to chapter 536, RSMo.**

53 **7. No community college district may sell certificates as described in this section**
54 **after July 1, 2014.**

178.984. 1. There is hereby established within the state treasury a special fund, to
2 **be known as the "Missouri Community College Job Retention Training Program Fund",**
3 **to be administered by the division of workforce development. The department of revenue**
4 **shall credit to the community college job retention training program fund, as received, all**
5 **retained jobs credit from withholding remitted by employers pursuant to section 178.982.**
6 **The fund shall also consist of any gifts, contributions, grants, or bequests received from**
7 **federal, private, or other sources. The general assembly, however, shall not provide for**
8 **any transfer of general revenue funds into the community college job retention training**
9 **program fund. Moneys in the Missouri community college job retention training program**
10 **fund shall be disbursed to the division of workforce development pursuant to regular**
11 **appropriations by the general assembly. The division shall disburse such appropriated**
12 **funds in a timely manner into the special funds established by community college districts**
13 **for projects, which funds shall be used to pay program costs, including the principal,**
14 **premium, and interest on certificates issued by the district to finance or refinance, in whole**
15 **or in part, a project. Such disbursements by the division of workforce development shall**
16 **be made to the special fund for each project in the same proportion as the retained jobs**
17 **credit from withholding remitted by the employer participating in such project bears to**
18 **the total retained jobs credit from withholding remitted by all employers participating in**
19 **projects during the period for which the disbursement is made. Moneys for retained jobs**
20 **training programs established under sections 178.980 to 178.985 shall be obtained from**
21 **appropriations made by the general assembly from the Missouri community college job**

22 retention training program fund. All moneys remaining in the Missouri community college
23 job retention training program fund at the end of any fiscal year shall not lapse to the
24 general revenue fund, as provided in section 33.080, RSMo, but shall remain in the
25 Missouri community college job retention training program fund.

26 2. The department of revenue shall develop such forms as are necessary to
27 demonstrate accurately each employer's retained jobs credit from withholding paid into
28 the Missouri community college job retention training program fund. The retained jobs
29 credit from withholding shall be accounted as separate from the normal withholding tax
30 paid to the department of revenue by the employer. Reimbursements made by all
31 employers to the Missouri community college job retention training program fund shall
32 be no less than all allocations made by the division of workforce development to all
33 community college districts for all job retention projects. The employer shall remit the
34 amount of the retained job credit to the department of revenue in the same manner as
35 provided in sections 143.191 to 143.265, RSMo.

178.985. Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:

2 (1) The provisions of the new program authorized under sections 178.980 to
3 178.985 shall automatically sunset six years after the effective date of sections 178.980 to
4 178.985 unless reauthorized by an act of the general assembly; and

5 (2) If such program is reauthorized, the program authorized under sections 178.980
6 to 178.985 shall automatically sunset four years after the effective date of the
7 reauthorization of sections 178.980 to 178.985; and

8 (3) Sections 178.980 to 178.985 shall terminate on September first of the calendar
9 year immediately following the calendar year in which the program authorized under
10 sections 178.980 to 178.985 is sunset.