

FIRST REGULAR SESSION

HOUSE BILL NO. 191

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES FLOOK (Sponsor), SMITH (150), ZERR, CORCORAN, DIEHL, DUSENBERG, FAITH, NIEVES, BRANDOM, KRAUS, GRISAMORE, JONES (89), BROWN (50), KOMO, COX, DAY, NANCE, BRUNS AND STORCH (Co-sponsors).

0837L.01I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 620.1881, RSMo, and to enact in lieu thereof one new section relating to the Missouri quality jobs act.

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

Section A. Section 620.1881, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 620.1881, to read as follows:

620.1881. 1. The department of economic development shall respond within thirty days to a company who provides a notice of intent with either an approval or a rejection of the notice of intent. The department shall give preference to qualified companies and projects targeted at an area of the state which has recently been classified as a disaster area by the federal government. Failure to respond on behalf of the department of economic development shall result in the notice of intent being deemed an approval for the purposes of this section. A qualified company who is provided an approval for a project shall be allowed a benefit as provided in this program in the amount and duration provided in this section. A qualified company may receive additional periods for subsequent new jobs at the same facility after the full initial period if the minimum thresholds are met as set forth in sections 620.1875 to 620.1890. There is no limit on the number of periods a qualified company may participate in the program, as long as the minimum thresholds are achieved and the qualified company provides the department with the required reporting and is in proper compliance for this program or other state programs. A qualified company may elect to file a notice of intent to start a new project period concurrent with an existing project period if the minimum thresholds are achieved 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.

16 the qualified company provides the department with the required reporting and is in proper
17 compliance for this program and other state programs; however, the qualified company may not
18 receive any further benefit under the original approval for jobs created after the date of the new
19 notice of intent, and any jobs created before the new notice of intent may not be included as new
20 jobs for the purpose of benefit calculation in relation to the new approval.

21 2. Notwithstanding any provision of law to the contrary, any qualified company that is
22 awarded benefits under this program may not simultaneously receive tax credits or exemptions
23 under sections 135.100 to 135.150, sections 135.200 to 135.286, section 135.535, or sections
24 135.900 to 135.906, RSMo, at the same project facility. The benefits available to the company
25 under any other state programs for which the company is eligible and which utilize withholding
26 tax from the new jobs of the company must first be credited to the other state program before the
27 withholding retention level applicable under the Missouri quality jobs act will begin to accrue.
28 These other state programs include, but are not limited to, the new jobs training program under
29 sections 178.892 to 178.896, RSMo, the job retention program under sections 178.760 to
30 178.764, RSMo, the real property tax increment allocation redevelopment act, sections 99.800
31 to 99.865, RSMo, or the Missouri downtown and rural economic stimulus act under sections
32 99.915 to 99.980, RSMo. If any qualified company also participates in the new jobs training
33 program in sections 178.892 to 178.896, RSMo, the company shall retain no withholding tax,
34 but the department shall issue a refundable tax credit for the full amount of benefit allowed under
35 this subdivision. The calendar year annual maximum amount of tax credits which may be issued
36 to a qualifying company that also participates in the new job training program shall be increased
37 by an amount equivalent to the withholding tax retained by that company under the new jobs
38 training program. However, if the combined benefits of the quality jobs program and the new
39 jobs training program exceed the projected state benefit of the project, as determined by the
40 department of economic development through a cost-benefit analysis, the increase in the
41 maximum tax credits shall be limited to the amount that would not cause the combined benefits
42 to exceed the projected state benefit. Any taxpayer who is awarded benefits under this program
43 who knowingly hires individuals who are not allowed to work legally in the United States shall
44 immediately forfeit such benefits and shall repay the state an amount equal to any state tax
45 credits already redeemed and any withholding taxes already retained.

46 3. The types of projects and the amount of benefits to be provided are:

47 (1) Small and expanding business projects: in exchange for the consideration provided
48 by the new tax revenues and other economic stimuli that will be generated by the new jobs
49 created by the program, a qualified company may retain an amount equal to the withholding tax
50 as calculated under subdivision (33) of section 620.1878 from the new jobs that would otherwise
51 be withheld and remitted by the qualified company under the provisions of sections 143.191 to

52 143.265, RSMo, for a period of three years from the date the required number of new jobs were
53 created if the average wage of the new payroll equals or exceeds the county average wage or for
54 a period of five years from the date the required number of new jobs were created if the average
55 wage of the new payroll equals or exceeds one hundred twenty percent of the county average
56 wage;

57 (2) Technology business projects: in exchange for the consideration provided by the new
58 tax revenues and other economic stimuli that will be generated by the new jobs created by the
59 program, a qualified company may retain an amount equal to a maximum of five percent of new
60 payroll for a period of five years from the date the required number of jobs were created from
61 the withholding tax of the new jobs that would otherwise be withheld and remitted by the
62 qualified company under the provisions of sections 143.191 to 143.265, RSMo, if the average
63 wage of the new payroll equals or exceeds the county average wage. An additional one-half
64 percent of new payroll may be added to the five percent maximum if the average wage of the
65 new payroll in any year exceeds one hundred twenty percent of the county average wage in the
66 county in which the project facility is located, plus an additional one-half percent of new payroll
67 may be added if the average wage of the new payroll in any year exceeds one hundred forty
68 percent of the average wage in the county in which the project facility is located. The department
69 shall issue a refundable tax credit for any difference between the amount of benefit allowed
70 under this subdivision and the amount of withholding tax retained by the company, in the event
71 the withholding tax is not sufficient to provide the entire amount of benefit due to the qualified
72 company under this subdivision. The calendar year annual maximum amount of tax credits that
73 may be issued to any qualified company for a project or combination of projects is five hundred
74 thousand dollars;

75 (3) High impact projects: in exchange for the consideration provided by the new tax
76 revenues and other economic stimuli that will be generated by the new jobs created by the
77 program, a qualified company may retain an amount from the withholding tax of the new jobs
78 that would otherwise be withheld and remitted by the qualified company under the provisions
79 of sections 143.191 to 143.265, RSMo, equal to three percent of new payroll for a period of five
80 years from the date the required number of jobs were created if the average wage of the new
81 payroll equals or exceeds the county average wage of the county in which the project facility is
82 located. The percentage of payroll allowed under this subdivision shall be three and one-half
83 percent of new payroll if the average wage of the new payroll in any year exceeds one hundred
84 twenty percent of the county average wage in the county in which the project facility is located.
85 The percentage of payroll allowed under this subdivision shall be four percent of new payroll if
86 the average wage of the new payroll in any year exceeds one hundred forty percent of the county
87 average wage in the county in which the project facility is located. An additional one percent

88 of new payroll may be added to these percentages if local incentives equal between ten percent
89 and twenty-four percent of the new direct local revenue; an additional two percent of new payroll
90 is added to these percentages if the local incentives equal between twenty-five percent and
91 forty-nine percent of the new direct local revenue; or an additional three percent of payroll is
92 added to these percentages if the local incentives equal fifty percent or more of the new direct
93 local revenue. The department shall issue a refundable tax credit for any difference between the
94 amount of benefit allowed under this subdivision and the amount of withholding tax retained by
95 the company, in the event the withholding tax is not sufficient to provide the entire amount of
96 benefit due to the qualified company under this subdivision. The calendar year annual maximum
97 amount of tax credits that may be issued to any qualified company for a project or combination
98 of projects is seven hundred fifty thousand dollars. The calendar year annual maximum amount
99 of tax credit that may be issued to any qualified company for a project or combination of projects
100 may be increased up to one million dollars if the number of new jobs will exceed five hundred
101 and if such action is proposed by the department and approved by the quality jobs advisory task
102 force established in section 620.1887; provided, however, until such time as the initial at-large
103 members of the quality jobs advisory task force are appointed, this determination shall be made
104 by the director of the department of economic development. In considering such a request, the
105 task force shall rely on economic modeling and other information supplied by the department
106 when requesting the increased limit on behalf of the project;

107 (4) Job retention projects: a qualified company may receive a tax credit for the retention
108 of jobs in this state, provided the qualified company and the project meets all of the following
109 conditions:

110 (a) For each of the twenty-four months preceding the year in which application for the
111 program is made the qualified company must have maintained at least one thousand full-time
112 employees at the employer's site in the state at which the jobs are based, and the average wage
113 of such employees must meet or exceed the county average wage;

114 (b) The qualified company retained at the project facility the level of full-time employees
115 that existed in the taxable year immediately preceding the year in which application for the
116 program is made;

117 (c) The qualified company is considered to have a significant statewide effect on the
118 economy, and has been determined to represent a substantial risk of relocation from the state by
119 the quality jobs advisory task force established in section 620.1887; provided, however, until
120 such time as the initial at-large members of the quality jobs advisory task force are appointed,
121 this determination shall be made by the director of the department of economic development;

122 (d) The qualified company in the project facility will cause to be invested a minimum
123 of seventy million dollars in new investment prior to the end of two years or will cause to be

124 invested a minimum of thirty million dollars in new investment prior to the end of two years and
125 maintain an annual payroll of at least seventy million dollars during each of the years for which
126 a credit is claimed; and

127 (e) The local taxing entities shall provide local incentives of at least fifty percent of the
128 new direct local revenues created by the project over a ten-year period. The quality jobs advisory
129 task force may recommend to the department of economic development that appropriate
130 penalties be applied to the company for violating the agreement. The amount of the job retention
131 credit granted may be equal to up to fifty percent of the amount of withholding tax generated by
132 the full-time jobs at the project facility for a period of five years. The calendar year annual
133 maximum amount of tax credit that may be issued to any qualified company for a job retention
134 project or combination of job retention projects shall be seven hundred fifty thousand dollars per
135 year, but the maximum amount may be increased up to one million dollars if such action is
136 proposed by the department and approved by the quality jobs advisory task force established in
137 section 620.1887; provided, however, until such time as the initial at-large members of the
138 quality jobs advisory task force are appointed, this determination shall be made by the director
139 of the department of economic development. In considering such a request, the task force shall
140 rely on economic modeling and other information supplied by the department when requesting
141 the increased limit on behalf of the job retention project. In no event shall the total amount of
142 all tax credits issued for the entire job retention program under this subdivision exceed three
143 million dollars annually. Notwithstanding the above, no tax credits shall be issued for job
144 retention projects approved by the department after August 30, 2013;

145 (5) Small business job retention and flood survivor relief: a qualified company may
146 receive a tax credit under sections 620.1875 to 620.1890 for the retention of jobs and flood
147 survivor relief in this state for each job retained over a three-year period, provided that:

148 (a) The qualified company did not receive any state or federal benefits, incentives, or tax
149 relief or abatement in locating its facility in a flood plain;

150 (b) The qualified company and related companies have fewer than one hundred
151 employees at the time application for the program is made;

152 (c) The average wage of the qualified company's and related companies' employees must
153 meet or exceed the county average wage;

154 (d) All of the qualified company's and related companies' facilities are located in this
155 state;

156 (e) The facilities at the primary business site in this state have been directly damaged by
157 floodwater rising above the level of a five hundred year flood at least two years, but fewer than
158 eight years, prior to the time application is made;

(f) The qualified company made significant efforts to protect the facilities prior to any impending danger from rising floodwaters;

(g) For each year it receives tax credits under sections 620.1875 to 620.1890, the qualified company and related companies retained, at the company's facilities in this state, at least the level of full-time, year-round employees that existed in the taxable year immediately preceding the year in which application for the program is made; and

(h) In the years it receives tax credits under sections 620.1875 to 620.1890, the company cumulatively invests at least two million dollars in capital improvements in facilities and equipment located at such facilities that are not located within a five hundred year flood plain as designated by the Federal Emergency Management Agency, and amended from time to time. The amount of the small business job retention and flood survivor relief credit granted may be equal to up to one hundred percent of the amount of withholding tax generated by the full-time jobs at the project facility for a period of three years. The calendar year annual maximum amount of tax credit that may be issued to any qualified company for a small business job retention and survivor relief project shall be two hundred fifty thousand dollars per year, but the maximum amount may be increased up to five hundred thousand dollars if such action is proposed by the department and approved by the quality jobs advisory task force established in section 620.1887. In considering such a request, the task force shall rely on economic modeling and other information supplied by the department when requesting an increase in the limit on behalf of the small business job retention and flood survivor relief project. In no event shall the total amount of all tax credits issued for the entire small business job retention and flood survivor relief program under this subdivision exceed five hundred thousand dollars annually. Notwithstanding the provisions of this subdivision to the contrary, no tax credits shall be issued for small business job retention and flood survivor relief projects approved by the department after August 30, 2010.

4. The qualified company shall provide an annual report of the number of jobs and such other information as may be required by the department to document the basis for the benefits of this program. The department may withhold the approval of any benefits until it is satisfied that proper documentation has been provided, and shall reduce the benefits to reflect any reduction in full-time employees or new payroll. Upon approval by the department, the qualified company may begin the retention of the withholding taxes when it reaches the minimum number of new jobs and the average wage exceeds the county average wage. Tax credits, if any, may be issued upon satisfaction by the department that the qualified company has exceeded the county average wage and the minimum number of new jobs. In such annual report, if the average wage is below the county average wage, the qualified company has not maintained the employee insurance as required, or if the number of new jobs is below the minimum, the qualified

195 company shall not receive tax credits or retain the withholding tax for the balance of the benefit
196 period. In the case of a qualified company that initially filed a notice of intent and received an
197 approval from the department for high impact benefits and the minimum number of new jobs in
198 an annual report is below the minimum for high impact projects, the company shall not receive
199 tax credits for the balance of the benefit period but may continue to retain the withholding taxes
200 if it otherwise meets the requirements of a small and expanding business under this program.

201 5. [The maximum calendar year annual tax credits issued for the entire program shall not
202 exceed sixty million dollars.] Notwithstanding any provision of law to the contrary, the
203 maximum annual tax credits authorized under section 135.535, RSMo, are hereby reduced from
204 ten million dollars to eight million dollars, with the balance of two million dollars transferred
205 to this program. There shall be no limit on the amount of withholding taxes that may be retained
206 by approved companies under this program.

207 6. The department shall allocate the annual tax credits based on the date of the approval,
208 reserving such tax credits based on the department's best estimate of new jobs and new payroll
209 of the project, and the other factors in the determination of benefits of this program. However,
210 the annual issuance of tax credits is subject to the annual verification of the actual new payroll.
211 The allocation of tax credits for the period assigned to a project shall expire if, within two years
212 from the date of commencement of operations, or approval if applicable, the minimum
213 thresholds have not been achieved. The qualified company may retain authorized amounts from
214 the withholding tax under this section once the minimum new jobs thresholds are met for the
215 duration of the project period. No benefits shall be provided under this program until the
216 qualified company meets the minimum new jobs thresholds. In the event the qualified company
217 does not meet the minimum new job threshold, the qualified company may submit a new notice
218 of intent or the department may provide a new approval for a new project of the qualified
219 company at the project facility or other facilities.

220 7. For a qualified company with flow-through tax treatment to its members, partners, or
221 shareholders, the tax credit shall be allowed to members, partners, or shareholders in proportion
222 to their share of ownership on the last day of the qualified company's tax period.

223 8. Tax credits may be claimed against taxes otherwise imposed by chapters 143 and 148,
224 RSMo, and may not be carried forward but shall be claimed within one year of the close of the
225 taxable year for which they were issued, except as provided under subdivision (4) of subsection
226 3 of this section.

227 9. Tax credits authorized by this section may be transferred, sold, or assigned by filing
228 a notarized endorsement thereof with the department that names the transferee, the amount of
229 tax credit transferred, and the value received for the credit, as well as any other information
230 reasonably requested by the department.

231 10. Prior to the issuance of tax credits, the department shall verify through the
232 department of revenue, or any other state department, that the tax credit applicant does not owe
233 any delinquent income, sales, or use tax or interest or penalties on such taxes, or any delinquent
234 fees or assessments levied by any state department and through the department of insurance,
235 financial institutions and professional registration that the applicant does not owe any delinquent
236 insurance taxes. Such delinquency shall not affect the authorization of the application for such
237 tax credits, except that at issuance credits shall be first applied to the delinquency and any
238 amount issued shall be reduced by the applicant's tax delinquency. If the department of revenue
239 or the department of insurance, financial institutions and professional registration, or any other
240 state department, concludes that a taxpayer is delinquent after June fifteenth but before July first
241 of any year and the application of tax credits to such delinquency causes a tax deficiency on
242 behalf of the taxpayer to arise, then the taxpayer shall be granted thirty days to satisfy the
243 deficiency in which interest, penalties, and additions to tax shall be tolled. After applying all
244 available credits toward a tax delinquency, the administering agency shall notify the appropriate
245 department and that department shall update the amount of outstanding delinquent tax owed by
246 the applicant. If any credits remain after satisfying all insurance, income, sales, and use tax
247 delinquencies, the remaining credits shall be issued to the applicant, subject to the restrictions
248 of other provisions of law.

249 11. Except as provided under subdivision (4) of subsection 3 of this section, the director
250 of revenue shall issue a refund to the qualified company to the extent that the amount of credits
251 allowed in this section exceeds the amount of the qualified company's income tax.

252 12. An employee of a qualified company will receive full credit for the amount of tax
253 withheld as provided in section 143.211, RSMo.

254 13. If any provision of sections 620.1875 to 620.1890 or application thereof to any
255 person or circumstance is held invalid, the invalidity shall not affect other provisions or
256 application of these sections which can be given effect without the invalid provisions or
257 application, and to this end, the provisions of sections 620.1875 to 620.1890 are hereby declared
258 severable.

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