

FIRST REGULAR SESSION

HOUSE BILL NO. 1035

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE PRATT.

2378L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 620.1878, RSMo, and to enact in lieu thereof one new section relating to the quality jobs act.

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

Section A. Section 620.1878, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 620.1878, to read as follows:

620.1878. For the purposes of sections 620.1875 to 620.1890, the following terms shall mean:

(1) "Approval", a document submitted by the department to the qualified company that states the benefits that may be provided by this program;

(2) "Average wage", the new payroll divided by the number of new jobs;

(3) "Commencement of operations", the starting date for the qualified company's first new employee, which must be no later than twelve months from the date of the approval;

(4) "County average wage", the average wages in each county as determined by the department for the most recently completed full calendar year. However, if the computed county average wage is above the statewide average wage, the statewide average wage shall be deemed the county average wage for such county for the purpose of determining eligibility. The department shall publish the county average wage for each county at least annually. Notwithstanding the provisions of this subdivision to the contrary, for any qualified company that in conjunction with their project is relocating employees from a Missouri county with a higher county average wage, the company shall obtain the endorsement of the governing body of the community from which jobs are being relocated or the county average wage for their

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.

17 project shall be the county average wage for the county from which the employees are being
18 relocated;

19 (5) "Department", the Missouri department of economic development;

20 (6) "Director", the director of the department of economic development;

21 (7) "Employee", a person employed by a qualified company;

22 (8) "Full-time employee", an employee of the qualified company that is scheduled to
23 work an average of at least thirty-five hours per week for a twelve-month period, and one for
24 which the qualified company offers health insurance and pays at least fifty percent of such
25 insurance premiums;

26 (9) "High-impact project", a qualified company that, within two years from
27 commencement of operations, creates one hundred or more new jobs;

28 (10) "Local incentives", the present value of the dollar amount of direct benefit received
29 by a qualified company for a project facility from one or more local political subdivisions, but
30 shall not include loans or other funds provided to the qualified company that must be repaid by
31 the qualified company to the political subdivision;

32 (11) "NAIAS", the 1997 edition of the North American Industry Classification System
33 as prepared by the Executive Office of the President, Office of Management and Budget. Any
34 NAIAS sector, subsector, industry group or industry identified in this section shall include its
35 corresponding classification in subsequent federal industry classification systems;

36 (12) "New direct local revenue", the present value of the dollar amount of direct net new
37 tax revenues of the local political subdivisions likely to be produced by the project over a
38 ten-year period as calculated by the department, excluding local earnings tax, and net new utility
39 revenues, provided the local incentives include a discount or other direct incentives from utilities
40 owned or operated by the political subdivision;

41 (13) "New investment", the purchase or leasing of new tangible assets to be placed in
42 operation at the project facility, which will be directly related to the new jobs;

43 (14) "New job", the number of full-time employees located at the project facility that
44 exceeds the project facility base employment less any decrease in the number of full-time
45 employees at related facilities below the related facility base employment. No job that was
46 created prior to the date of the notice of intent shall be deemed a new job. An employee that
47 spends less than fifty percent of the employee's work time at the facility is still considered to be
48 located at a facility if the employee receives his or her directions and control from that facility,
49 is on the facility's payroll, one hundred percent of the employee's income from such employment
50 is Missouri income, and the employee is paid at or above the state average wage;

51 (15) "New payroll", the amount of taxable wages of full-time employees, excluding
52 owners, located at the project facility that exceeds the project facility base payroll. If full-time

53 employment at related facilities is below the related facility base employment, any decrease in
54 payroll for full-time employees at the related facilities below that related facility base payroll
55 shall also be subtracted to determine new payroll;

56 (16) "Notice of intent", a form developed by the department, completed by the qualified
57 company and submitted to the department which states the qualified company's intent to hire new
58 jobs and request benefits under this program;

59 (17) "Percent of local incentives", the amount of local incentives divided by the amount
60 of new direct local revenue;

61 (18) "Program", the Missouri quality jobs program provided in sections 620.1875 to
62 620.1890;

63 (19) "Project facility", the building used by a qualified company at which the new jobs
64 and new investment will be located. A project facility may include separate buildings that are
65 located within one mile of each other or within the same county such that their purpose and
66 operations are interrelated;

67 (20) "Project facility base employment", the greater of the number of full-time
68 employees located at the project facility on the date of the notice of intent or for the
69 twelve-month period prior to the date of the notice of intent, the average number of full-time
70 employees located at the project facility. In the event the project facility has not been in
71 operation for a full twelve-month period, the average number of full-time employees for the
72 number of months the project facility has been in operation prior to the date of the notice of
73 intent;

74 (21) "Project facility base payroll", the total amount of taxable wages paid by the
75 qualified company to full-time employees of the qualified company located at the project facility
76 in the twelve months prior to the notice of intent, not including the payroll of the owners of the
77 qualified company unless the qualified company is participating in an employee stock ownership
78 plan. For purposes of calculating the benefits under this program, the amount of base payroll
79 shall increase each year based on an appropriate measure, as determined by the department;

80 (22) "Project period", the time period that the benefits are provided to a qualified
81 company;

82 (23) "Qualified company", a firm, partnership, joint venture, association, private or
83 public corporation whether organized for profit or not, or headquarters of such entity registered
84 to do business in Missouri that is the owner or operator of a project facility, offers health
85 insurance to all full-time employees of all facilities located in this state, and pays at least fifty
86 percent of such insurance premiums. For the purposes of sections 620.1875 to 620.1890, the
87 term "qualified company" shall not include:

88 (a) Gambling establishments (NAIAS industry group 7132);

- 89 (b) Retail trade establishments (NAIAS sectors 44 and 45);
90 (c) Food and drinking places (NAIAS subsector 722);
91 (d) Public utilities (NAIAS 221 including water and sewer services);
92 (e) Any company that is delinquent in the payment of any nonprotested taxes or any
93 other amounts due the state or federal government or any other political subdivision of this state;
94 (f) Any company that has filed for or has publicly announced its intention to file for
95 bankruptcy protection. **However, a company that has filed for or has publicly announced its**
96 **intention to file for bankruptcy on January 1, 2009, or after may be a qualified company**
97 **provided that such company:**
98 **a. Certifies to the department that it plans to reorganize and not to liquidate; and**
99 **b. After its bankruptcy petition has been filed, it produces proof, in a form and at**
100 **times satisfactory to the department, that it is not delinquent in filing any tax returns or**
101 **making any payment due to the state of Missouri, including but not limited to all tax**
102 **payments due after the filing of the bankruptcy petition and under the terms of the plan**
103 **of reorganization;**
104 (g) Educational services (NAIAS sector 61);
105 (h) Religious organizations (NAIAS industry group 8131);
106 (i) Public administration (NAIAS sector 92);
107 (j) Ethanol distillation or production; or
108 (k) Biodiesel production. Notwithstanding any provision of this section to the contrary,
109 the headquarters or administrative offices of an otherwise excluded business may qualify for
110 benefits if the offices serve a multistate territory. In the event a national, state, or regional
111 headquarters operation is not the predominant activity of a project facility, the new jobs and
112 investment of such headquarters operation is considered eligible for benefits under this section
113 if the other requirements are satisfied;
114 (24) "Qualified renewable energy sources" shall not be construed to include ethanol
115 distillation or production or biodiesel production; however, it shall include:
116 (a) Open-looped biomass;
117 (b) Close-looped biomass;
118 (c) Solar;
119 (d) Wind;
120 (e) Geothermal; and
121 (f) Hydropower;
122 (25) "Related company" means:
123 (a) A corporation, partnership, trust, or association controlled by the qualified company;

124 (b) An individual, corporation, partnership, trust, or association in control of the
125 qualified company; or

126 (c) Corporations, partnerships, trusts or associations controlled by an individual,
127 corporation, partnership, trust or association in control of the qualified company. As used in this
128 subdivision, "control of a corporation" shall mean ownership, directly or indirectly, of stock
129 possessing at least fifty percent of the total combined voting power of all classes of stock entitled
130 to vote, "control of a partnership or association" shall mean ownership of at least fifty percent
131 of the capital or profits interest in such partnership or association, "control of a trust" shall mean
132 ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal
133 or income of such trust, and ownership shall be determined as provided in Section 318 of the
134 Internal Revenue Code of 1986, as amended;

135 (26) "Related facility", a facility operated by the qualified company or a related company
136 located in this state that is directly related to the operations of the project facility;

137 (27) "Related facility base employment", the greater of the number of full-time
138 employees located at all related facilities on the date of the notice of intent or for the
139 twelve-month period prior to the date of the notice of intent, the average number of full-time
140 employees located at all related facilities of the qualified company or a related company located
141 in this state;

142 (28) "Related facility base payroll", the total amount of taxable wages paid by the
143 qualified company to full-time employees of the qualified company located at a related facility
144 in the twelve months prior to the filing of the notice of intent, not including the payroll of the
145 owners of the qualified company unless the qualified company is participating in an employee
146 stock ownership plan. For purposes of calculating the benefits under this program, the amount
147 of related facility base payroll shall increase each year based on an appropriate measure, as
148 determined by the department;

149 (29) "Rural area", a county in Missouri with a population less than seventy-five thousand
150 or that does not contain an individual city with a population greater than fifty thousand according
151 to the most recent federal decennial census;

152 (30) "Small and expanding business project", a qualified company that within two years
153 of the date of the approval creates a minimum of twenty new jobs if the project facility is located
154 in a rural area or a minimum of forty new jobs if the project facility is not located in a rural area
155 and creates fewer than one hundred new jobs regardless of the location of the project facility;

156 (31) "Tax credits", tax credits issued by the department to offset the state income taxes
157 imposed by chapters 143 and 148, RSMo, or which may be sold or refunded as provided for in
158 this program;

159 (32) "Technology business project", a qualified company that within two years of the
160 date of the approval creates a minimum of ten new jobs involved in the operations of a company:
161 (a) Which is a technology company, as determined by a regulation promulgated by the
162 department under the provisions of section 620.1884 or classified by NAIAS codes;
163 (b) Which owns or leases a facility which produces electricity derived from qualified
164 renewable energy sources, or produces fuel for the generation of electricity from qualified
165 renewable energy sources, but does not include any company that has received the alcohol
166 mixture credit, alcohol credit, or small ethanol producer credit pursuant to 26 U.S.C. Section
167 40 of the tax code in the previous tax year; or
168 (c) Which researches, develops, or manufactures power system technology for:
169 aerospace; space; defense; hybrid vehicles; or implantable or wearable medical devices;
170 (33) "Withholding tax", the state tax imposed by sections 143.191 to 143.265, RSMo.
171 For purposes of this program, the withholding tax shall be computed using a schedule as
172 determined by the department based on average wages.

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