

FIRST EXTRAORDINARY SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 2**  
**95TH GENERAL ASSEMBLY**

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Reported from the Committee on Jobs, Economic Development and Local Government, June 30, 2010, with recommendation that the Senate Committee Substitute do pass.

6003S.05C

TERRY L. SPIELER, Secretary.

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**AN ACT**

To amend chapter 620, RSMo, by adding thereto one new section relating to job growth.

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

Section A. Chapter 620, RSMo, is amended by adding thereto one new  
2 section, to be known as section 620.1910, to read as follows:

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

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

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

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

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

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

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

16 **(6) "Full-time job", a job for which a person is compensated for  
17 an average of at least thirty-five hours per week for a twelve-month  
18 period, and one for which the qualified manufacturing company or  
19 qualified supplier offers health insurance and pays at least fifty**

20 percent of such insurance premiums;

21 (7) "NAICS industry classification", the most recent edition of the  
22 North American Industry Classification System as prepared by the  
23 Executive Office of the President, Office of Management and Budget;

24 (8) "New job", the same meaning as such term is defined in  
25 section 620.1878;

26 (9) "New product", a new model or line of a manufactured good  
27 that has not been manufactured in Missouri by the qualified  
28 manufacturing company at any time prior to the date of the notice of  
29 intent, or an existing brand, model, or line of a manufactured good that  
30 is redesigned with more than seventy-five percent new exterior body  
31 parts and incorporates new powertrain options;

32 (10) "Notice of intent", a form developed by the department,  
33 completed by the qualified manufacturing company or qualified  
34 supplier and submitted to the department which states the qualified  
35 manufacturing company's or qualified supplier's intent to create new  
36 jobs or retain current jobs and make additional capital investment, as  
37 applicable, and request benefits under this section. The notice of intent  
38 shall specify the minimum number of such new or retained jobs and the  
39 minimum amount of such capital investment;

40 (11) "Qualified manufacturing company", a business with a NAICS  
41 code of 33611 that:

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

43 (b) In the case of the manufacture of a new product, commits to  
44 make a capital investment of at least seventy-five thousand dollars per  
45 retained job within no more than two years of the date the qualified  
46 manufacturing company begins to retain withholding tax under this  
47 section, or in the case of the modification or expansion of the  
48 manufacture of an existing product, commits to make a capital  
49 investment of at least fifty thousand dollars per retained job within no  
50 more than two years of the date the qualified manufacturing company  
51 begins to retain withholding tax under this section;

52 (c) Manufactures a new product or has commenced making  
53 capital improvements to the facility necessary for the manufacturing  
54 of such new product, or modifies or expands the manufacture of an  
55 existing product or has commenced making capital improvements to  
56 the facility necessary for the modification or expansion of the

57 manufacture of such existing product; and

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

60 (12) "Qualified supplier", a manufacturing company that:

61 (a) Attests to the department that it derives more than ten  
62 percent of the total annual sales of the company from sales to a  
63 qualified manufacturing company;

64 (b) Adds five or more new jobs;

65 (c) Has an average wage, as defined in section 135.950, for such  
66 new jobs that are equal to or exceed the lower of the county average  
67 wage for Missouri as determined by the department using NAICS  
68 industry classifications, but not lower than sixty percent of the  
69 statewide average wage; and

70 (d) Provides health insurance for all full-time jobs and pays at  
71 least fifty percent of the premiums of such insurance;

72 (13) "Retained job", the number of full-time jobs of persons  
73 employed by the qualified manufacturing company located at the  
74 facility that existed as of the last working day of the month  
75 immediately preceding the month in which notice of intent is  
76 submitted;

77 (14) "Statewide average wage", an amount equal to the quotient  
78 of the sum of the total gross wages paid for the corresponding four  
79 calendar quarters divided by the average annual employment for such  
80 four calendar quarters, which shall be computed using the Quarterly  
81 Census of Employment and Wages Data for All Private Ownership  
82 Businesses in Missouri, as published by the Bureau of Labor Statistics  
83 of the United States Department of Labor;

84 (15) "Withholding period", the seven- or ten-year period in which  
85 a qualified manufacturing company may receive benefits under this  
86 section;

87 (16) "Withholding tax", the same meaning as such term is defined  
88 in section 620.1878.

89 3. The department shall respond within thirty days to a qualified  
90 manufacturing company or a qualified supplier who provides a notice  
91 of intent with either an approval or a rejection of the notice of  
92 intent. Failure to respond on behalf of the department shall result in  
93 the notice of intent being deemed an approval for the purposes of this

94 section.

95           4. A qualified manufacturing company that manufactures a new  
96 product may, upon the department's approval of a notice of intent and  
97 the execution of an agreement that meets the requirements of  
98 subsection 9 of this section, but no earlier than January 1, 2012, retain  
99 one hundred percent of the withholding tax from full-time jobs at the  
100 facility for a period of ten years. A qualified manufacturing company  
101 that modifies or expands the manufacture of an existing product may,  
102 upon the department's approval of a notice of intent and the execution  
103 of an agreement that meets the requirements of subsection 9 of this  
104 section, but no earlier than January 1, 2012, retain fifty percent of the  
105 withholding tax from full-time jobs at the facility for a period of seven  
106 years. Except as otherwise allowed under subsection 7 of this section,  
107 the commencement of the withholding period may be delayed by no  
108 more than twenty-four months after execution of the agreement at the  
109 option of the qualified manufacturing company. Such qualified  
110 manufacturing company shall be eligible for participation in the  
111 Missouri quality jobs program in sections 620.1875 to 620.1890 for any  
112 new jobs for which it does not retain withholding tax under this  
113 section, provided all qualifications for such program are met.

114           5. A qualified supplier may, upon approval of a notice of intent  
115 by the department, retain all withholding tax from new jobs for a  
116 period of three years from the date of approval of the notice of intent  
117 or for a period of five years if the supplier pays wages for the new jobs  
118 equal to or greater than one hundred twenty percent of county average  
119 wage. Notwithstanding any other provision of law to the contrary, a  
120 qualified supplier that is awarded benefits under this section shall not  
121 receive any tax credit or exemption or be entitled to retain withholding  
122 under sections 100.700 to 100.850, sections 135.100 to 135.150, sections  
123 135.200 to 135.286, section 135.535, sections 135.900 to 135.906, sections  
124 135.950 to 135.970, or section 620.1881 for the same jobs.

125           6. Notwithstanding any other provision of law to the contrary,  
126 the maximum amount of withholding tax that may be retained by any  
127 one qualified manufacturing company under this section shall not  
128 exceed ten million dollars per calendar year. The aggregate amount of  
129 withholding tax that may be retained by all qualified manufacturing  
130 companies under this section shall not exceed fifteen million dollars

131 per calendar year.

132           7. Notwithstanding any other provision of law to the contrary,  
133 any qualified manufacturing company that is awarded benefits under  
134 this section shall not simultaneously receive tax credits or exemptions  
135 under sections 100.700 to 100.850, sections 135.100 to 135.150, sections  
136 135.200 to 135.286, section 135.535, or sections 135.900 to 135.906 for the  
137 jobs created or retained or capital improvement which qualified for  
138 benefits under this section. The benefits available to the qualified  
139 manufacturing company under any other state programs for which the  
140 qualified manufacturing company is eligible and which utilize  
141 withholding tax from the jobs at the facility shall first be credited to  
142 the other state program before the applicable withholding period for  
143 benefits provided under this section shall begin. These other state  
144 programs include, but are not limited to, the new jobs training program  
145 under sections 178.892 to 178.896, the job retention program under  
146 sections 178.760 to 178.764, the real property tax increment allocation  
147 redevelopment act under sections 99.800 to 99.865, or the Missouri  
148 downtown and rural economic stimulus act under sections 99.915 to  
149 99.980. If any qualified manufacturing company also participates in the  
150 new jobs training program in sections 178.892 to 178.896, such qualified  
151 manufacturing company shall not retain any withholding tax that has  
152 already been allocated for use in the new jobs training program. Any  
153 qualified manufacturing company or qualified supplier that is awarded  
154 benefits under this program and knowingly hires individuals who are  
155 not allowed to work legally in the United States shall immediately  
156 forfeit such benefits and shall repay the state an amount equal to any  
157 withholding taxes already retained. Subsection 5 of section 285.530  
158 shall not apply to qualified manufacturing companies or qualified  
159 suppliers which are awarded benefits under this program.

160           8. The department may promulgate rules to implement the  
161 provisions of this section. Any rule or portion of a rule, as that term is  
162 defined in section 536.010, that is created under the authority delegated  
163 in this section shall become effective only if it complies with and is  
164 subject to all of the provisions of chapter 536 and, if applicable, section  
165 536.028. This section and chapter 536 are nonseverable and if any of  
166 the powers vested with the general assembly under chapter 536 to  
167 review, to delay the effective date, or to disapprove and annul a rule

168 are subsequently held unconstitutional, then the grant of rulemaking  
169 authority and any rule proposed or adopted after the effective date of  
170 this section shall be invalid and void.

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

177           (1) If the amount of capital investment made by the qualified  
178 manufacturing company is not made within the two-year period  
179 provided for such investment, the qualified manufacturing company  
180 shall immediately cease retaining any withholding tax with respect to  
181 jobs at the facility and it shall forfeit all rights to retain withholding  
182 tax for the remainder of the withholding period. In addition, the  
183 qualified manufacturing company shall repay any amounts of  
184 withholding tax retained plus interest of five percent per  
185 annum. However, in the event that such capital investment shortfall is  
186 due to economic conditions beyond the control of the qualified  
187 manufacturing company, the director may, at the qualified  
188 manufacturing company's request, suspend rather than terminate its  
189 privilege to retain withholding tax under this section for up to three  
190 years. Any such suspension shall extend the withholding period by the  
191 same amount of time. No more than one such suspension shall be  
192 granted to a qualified manufacturing company;

193           (2) If the qualified manufacturing company discontinues the  
194 manufacturing of the new product and does not replace it with a  
195 subsequent or additional new product manufactured at the facility at  
196 any time during the withholding period, the qualified manufacturing  
197 company shall immediately cease retaining any withholding tax with  
198 respect to jobs at that facility and it shall forfeit all rights to retain  
199 withholding tax for the remainder of the withholding period.

200           10. Prior to March first each year, the department shall provide  
201 a report to the general assembly including the names of participating  
202 qualified manufacturing companies or qualified suppliers, location of  
203 such companies or suppliers, the annual amount of benefits provided,  
204 the estimated net state fiscal impact including direct and indirect new

205 state taxes derived, and the number of new jobs created or jobs  
206 retained.

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

208 (1) The provisions of the new program authorized under this  
209 section shall automatically sunset six years after the effective date of  
210 this section unless reauthorized by an act of the general assembly; and

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

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

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