

FIRST EXTRAORDINARY SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2
95TH GENERAL ASSEMBLY

6003S.05T

2010

AN ACT

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

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 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 "Manufacturing Jobs Act".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (c) Manufactures a new product or has commenced making capital improvements
46 to the facility necessary for the manufacturing of such new product, or modifies or expands
47 the manufacture of an existing product or has commenced making capital improvements
48 to the facility necessary for the modification or expansion of the manufacture of such
49 existing product; and

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

- 52 (12) "Qualified supplier", a manufacturing company that:
53 (a) Attests to the department that it derives more than ten percent of the total
54 annual sales of the company from sales to a qualified manufacturing company;
55 (b) Adds five or more new jobs;
56 (c) Has an average wage, as defined in section 135.950, for such new jobs that are
57 equal to or exceed the lower of the county average wage for Missouri as determined by the
58 department using NAICS industry classifications, but not lower than sixty percent of the
59 statewide average wage; and
60 (d) Provides health insurance for all full-time jobs and pays at least fifty percent
61 of the premiums of such insurance;
62 (13) "Retained job", the number of full-time jobs of persons employed by the
63 qualified manufacturing company located at the facility that existed as of the last working
64 day of the month immediately preceding the month in which notice of intent is submitted;
65 (14) "Statewide average wage", an amount equal to the quotient of the sum of the
66 total gross wages paid for the corresponding four calendar quarters divided by the average
67 annual employment for such four calendar quarters, which shall be computed using the
68 Quarterly Census of Employment and Wages Data for All Private Ownership Businesses
69 in Missouri, as published by the Bureau of Labor Statistics of the United States
70 Department of Labor;
71 (15) "Withholding period", the seven- or ten-year period in which a qualified
72 manufacturing company may receive benefits under this section;
73 (16) "Withholding tax", the same meaning as such term is defined in section
74 620.1878.
- 75 3. The department shall respond within thirty days to a qualified manufacturing
76 company or a qualified supplier who provides a notice of intent with either an approval
77 or a rejection of the notice of intent. Failure to respond on behalf of the department shall
78 result in the notice of intent being deemed an approval for the purposes of this section.
- 79 4. A qualified manufacturing company that manufactures a new product may,
80 upon the department's approval of a notice of intent and the execution of an agreement
81 that meets the requirements of subsection 9 of this section, but no earlier than January 1,
82 2012, retain one hundred percent of the withholding tax from full-time jobs at the facility
83 for a period of ten years. A qualified manufacturing company that modifies or expands
84 the manufacture of an existing product may, upon the department's approval of a notice
85 of intent and the execution of an agreement that meets the requirements of subsection 9 of
86 this section, but no earlier than January 1, 2012, retain fifty percent of the withholding tax
87 from full-time jobs at the facility for a period of seven years. Except as otherwise allowed

under subsection 7 of this section, the commencement of the withholding period may be delayed by no more than twenty-four months after execution of the agreement at the option of the qualified manufacturing company. Such qualified manufacturing company shall be eligible for participation in the Missouri quality jobs program in sections 620.1875 to 620.1890 for any new jobs for which it does not retain withholding tax under this section, provided all qualifications for such program are met.

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

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

7. Notwithstanding any other provision of law to the contrary, any qualified manufacturing company that is awarded benefits under this section shall not simultaneously receive tax credits or exemptions under sections 100.700 to 100.850, sections 135.100 to 135.150, sections 135.200 to 135.286, section 135.535, or sections 135.900 to 135.906 for the jobs created or retained or capital improvement which qualified for benefits under this section. The benefits available to the qualified manufacturing company under any other state programs for which the qualified manufacturing company is eligible and which utilize withholding tax from the jobs at the facility shall first be credited to the other state program before the applicable withholding period for benefits provided under this section shall begin. These other state programs include, but are not limited to, the new jobs training program under sections 178.892 to 178.896, the job retention program under sections 178.760 to 178.764, the real property tax increment allocation redevelopment act under sections 99.800 to 99.865, or the Missouri downtown and rural economic stimulus act under sections 99.915 to 99.980. If any qualified manufacturing company also participates in the new jobs training program in sections 178.892 to 178.896, such qualified manufacturing company shall not retain any withholding tax that has already been

124 allocated for use in the new jobs training program. Any qualified manufacturing company
125 or qualified supplier that is awarded benefits under this program and knowingly hires
126 individuals who are not allowed to work legally in the United States shall immediately
127 forfeit such benefits and shall repay the state an amount equal to any withholding taxes
128 already retained. Subsection 5 of section 285.530 shall not apply to qualified
129 manufacturing companies or qualified suppliers which are awarded benefits under this
130 program.

131 8. The department may promulgate rules to implement the provisions of this
132 section. Any rule or portion of a rule, as that term is defined in section 536.010, that is
133 created under the authority delegated in this section shall become effective only if it
134 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
135 section 536.028. This section and chapter 536 are nonseverable and if any of the powers
136 vested with the general assembly under chapter 536 to review, to delay the effective date,
137 or to disapprove and annul a rule are subsequently held unconstitutional, then the grant
138 of rulemaking authority and any rule proposed or adopted after the effective date of this
139 section shall be invalid and void.

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

144 (1) If the amount of capital investment made by the qualified manufacturing
145 company is not made within the two-year period provided for such investment, the
146 qualified manufacturing company shall immediately cease retaining any withholding tax
147 with respect to jobs at the facility and it shall forfeit all rights to retain withholding tax for
148 the remainder of the withholding period. In addition, the qualified manufacturing
149 company shall repay any amounts of withholding tax retained plus interest of five percent
150 per annum. However, in the event that such capital investment shortfall is due to economic
151 conditions beyond the control of the qualified manufacturing company, the director may,
152 at the qualified manufacturing company's request, suspend rather than terminate its
153 privilege to retain withholding tax under this section for up to three years. Any such
154 suspension shall extend the withholding period by the same amount of time. No more than
155 one such suspension shall be granted to a qualified manufacturing company;

156 (2) If the qualified manufacturing company discontinues the manufacturing of the
157 new product and does not replace it with a subsequent or additional new product
158 manufactured at the facility at any time during the withholding period, the qualified
159 manufacturing company shall immediately cease retaining any withholding tax with

160 respect to jobs at that facility and it shall forfeit all rights to retain withholding tax for the
161 remainder of the withholding period.

162 **10. Prior to March first each year, the department shall provide a report to the**
163 **general assembly including the names of participating qualified manufacturing companies**
164 **or qualified suppliers, location of such companies or suppliers, the annual amount of**
165 **benefits provided, the estimated net state fiscal impact including direct and indirect new**
166 **state taxes derived, and the number of new jobs created or jobs retained.**

167 **11. Under section 23.253 of the Missouri sunset act:**

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

171 **(2) If such program is reauthorized, the program authorized under this section**
172 **shall automatically sunset twelve years after the effective date of the reauthorization of this**
173 **section; and**

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

Section B. Because of the governor's authority under the provisions of Section IV,
2 Article 8 of the Missouri Constitution to specifically designate matters to be considered in an
3 extraordinary session of the general assembly and the inextricable nature of the matters
4 designated in the governor's proclamation for this first extraordinary session, section A of this
5 act shall not become effective except upon the passage and approval by signature of the governor
6 of the truly agreed and finally passed version of house bill no. 1 as enacted during the first
7 extraordinary session of the second regular session of the ninety-fifth general assembly.

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