

SECOND REGULAR SESSION

HOUSE BILL NO. 1927

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE REDMON.

5107H.02I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 620, RSMo, by adding thereto seven new sections relating to the Show Me Rural Jobs Act.

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

Section A. Chapter 620, RSMo, is amended by adding thereto seven new sections, to be known as sections 620.1950, 620.1951, 620.1952, 620.1953, 620.1954, 620.1955, and 620.1956, to read as follows:

620.1950. Sections 620.1950 to 620.1956 shall be known and may be cited as the "Show Me Rural Jobs Act".

620.1951. As used in this section, the following terms mean:

(1) "Affiliate", an entity that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with an entity certified or seeking certification as an approved investment company. For the purposes of sections 620.1950 to 620.1956, an entity is "controlled by" another entity if the controlling entity holds, directly or indirectly, the majority voting or ownership interest in the controlled entity or has control over the day-to-day operations of the controlled entity by contract or by law;

(2) "Approved investment company", an entity approved by the department of agriculture under section 620.1953;

(3) "Closing date", the date on which an approved investment company collects all of the amounts specified under subsection 6 of section 620.1953;

(4) "Credit-eligible capital contribution", an investment of cash by a person or entity subject to taxes under section 375.916 or chapters 143, 148, or 153, excluding

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.

15 withholding tax imposed under sections 143.191 to 143.265, in an approved investment
16 company that equals the amount specified on a tax credit certificate issued under
17 subsection 5 of section 620.1953. Such investment shall purchase an equity interest in the
18 approved investment company or purchase, at par value or premium, a debt instrument
19 that has a maturity date at least five years from the date of investment;

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

21 (6) "Funding", any capital or equity investment in a rural business concern or any
22 loan to a rural business concern with a term of at least one year;

23 (7) "Growth capital", capital investments in an approved investment company in
24 the amount as stated on the notice issued under subsection 5 of section 620.1953 and
25 comprised no more than sixty percent of credit-eligible capital contributions and at least
26 forty percent of other investments of cash;

27 (8) "Operating company", excludes any publicly traded business and any business
28 that does not derive or project to derive fifteen percent or more of annual revenue from the
29 rental or sale of real property, except any business that is a special purpose entity
30 principally owned by a principal user of that property formed solely for the purpose of
31 renting, either directly or indirectly, or selling real property back to such principal user
32 if such principal user does not derive fifteen percent or more of its gross annual revenue
33 from the rental or sale of real property;

34 (9) "Principal business operations", the location where:

35 (a) At least sixty percent of the business' employees reside;

36 (b) The individuals who receive sixty percent of the business' payroll reside; or

37 (c) The business has agreed to relocate, using the proceeds of its funding so that it
38 meets the requirements of paragraph (a) or (b) of this subdivision;

39 (10) "Rural area", a location:

40 (a) Within a political subdivision having a population less than or equal to fifty
41 thousand and outside the standard metropolitan statistical area of any adjacent community
42 having a population greater than fifty thousand; or

43 (b) Determined to be "rural in character" by the director of agriculture;

44 (11) "Rural business concern", an operating company that:

45 (a) At the time of the initial investment in the company by an approved investment
46 company, has not previously received or is not contemporaneously receiving funding from
47 another approved investment company;

48 (b) Has its principal business operations in Missouri;

49 (c) Has fewer than two hundred fifty employees or had a federal adjusted gross
50 income less than fifteen million dollars in the preceding tax year;

- 51 (d) Has its principal business operations located in a rural area; and
52 (e) Engages in industries related to manufacturing, plant sciences, technology, or
53 agricultural technology or, if not engaged in such industries, the department of agriculture
54 makes a determination that the targeted funding will be highly beneficial to the economic
55 growth of the state.

620.1952. 1. There is hereby created in the state treasury the "Show Me Rural Jobs
2 Fund", which shall consist of moneys collected under sections 620.1950 to 620.1956. The
3 state treasurer shall be custodian of the fund. In accordance with sections 30.170 and
4 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund
5 and, upon appropriation, moneys in the fund shall be used solely for the administration of
6 sections 620.1950 to 620.1956.

7 2. Notwithstanding the provisions of section 33.080 to the contrary, any moneys
8 remaining in the fund at the end of the biennium shall not revert to the credit of the
9 general revenue fund.

10 3. The state treasurer shall invest moneys in the fund in the same manner as other
11 funds are invested. Any interest and moneys earned on such investments shall be credited
12 to the fund.

620.1953. 1. Beginning October 1, 2016, the Department of Agriculture shall accept
2 applications for approved investment companies. The application shall include:

- 3 (1) The amount of growth capital sought by the applicant;
4 (2) A copy of the applicant's or its affiliate's license as a rural business investment
5 company under 7 U.S.C. Section 2009cc or as a small business investment company under
6 15 U.S.C. Section 681;
7 (3) Evidence showing that the applicant or its affiliates have invested at least one
8 hundred million dollars in operating companies and at least fifty million dollars in
9 operating companies located in rural areas;
10 (4) An estimate of the number of jobs that will be created or retained in Missouri
11 as a result of the applicant's funding;
12 (5) A business plan for the applicant's proposed funding prepared by a nationally
13 recognized third-party independent economic forecasting firm, which includes a revenue
14 impact assessment projecting state and local tax revenue under the applicant's ten-year
15 business plan;
16 (6) An affidavit from each investor stating a commitment to make a credit-eligible
17 capital contribution in support of the business plan and the amount of such credit-eligible
18 capital contribution; and
19 (7) A nonrefundable application fee of five thousand dollars.

20 **2. The department of agriculture shall make an application determination within**
21 **thirty days of receipt in the order in which applications are received. The department of**
22 **agriculture shall deem applications received on the same day as received simultaneously.**
23 **Except as provided under subsection 4 of section 620.1955, the department of agriculture**
24 **shall not approve more than one hundred sixty-six million six hundred sixty-six thousand**
25 **six hundred sixty-seven dollars in growth capital and not more than one hundred million**
26 **dollars in credit-eligible capital contributions under this section. If requests for growth**
27 **capital exceed this limitation, the department of agriculture shall proportionally reduce the**
28 **growth capital and the credit-eligible capital contributions for each approved application**
29 **as necessary to meet the limitation.**

30 **3. The department of agriculture shall deny an application submitted under this**
31 **section if:**

32 **(1) The application fee is not paid in full;**

33 **(2) The applicant does not satisfy all the requirements under subdivision 2 of**
34 **subsection 1 of this section;**

35 **(3) The revenue impact assessment does not demonstrate that the applicant's**
36 **business plan will result in a positive economic impact in Missouri over a ten-year period**
37 **that exceeds the cumulative amount of tax credits the applicant seeks;**

38 **(4) The credit-eligible capital contributions exceed sixty percent of the total growth**
39 **capital sought under the applicant's business plan; or**

40 **(5) The department of agriculture has already approved the maximum amount of**
41 **growth capital and credit-eligible capital contributions allowed under subsection 2 of this**
42 **section.**

43 **4. If the department of agriculture denies an application, the applicant may provide**
44 **additional information within fifteen days of the notice of denial to the department of**
45 **agriculture to complete, clarify, or cure defects in the application identified by the**
46 **department of agriculture, and the department of agriculture shall reconsider the**
47 **application and make a determination within fifteen days before approving any pending**
48 **applications submitted after the denied applicant's original submission date.**

49 **5. The department of agriculture shall not deny an application or reduce the**
50 **requested growth capital for reasons other than those described under subsections 2 and**
51 **3 of this section. If the department of agriculture approves an application, it shall provide**
52 **written notice to the applicant stating:**

53 **(1) The applicant is an approved investment company;**

54 **(2) The approved amount of the growth capital; and**

55 **(3) A tax credit certificate for each investor whose affidavit was included in the**
56 **application.**

57

58 **The department of agriculture shall provide a copy of such notice to the department.**

59 **6. After receiving notice of approval, an approved investment company shall:**

60 **(1) Within sixty days:**

61 **(a) Collect the credit-eligible capital contributions from each investor who was**
62 **issued a tax credit certificate; and**

63 **(b) Collect one or more investments of cash that will compose forty percent of the**
64 **approved investment company's growth capital.**

65

66 **At least ten percent of the approved investment company's growth capital shall be**
67 **composed of equity investments contributed by affiliates of the approved investment**
68 **company, including employees, officers, and directors of such affiliates; and**

69 **(2) Within sixty-five days, deliver to the department of agriculture and to the**
70 **department documentation sufficient to prove that the amounts described under**
71 **subdivision 1 of this subsection have been collected.**

72 **7. If the approved investment company fails to fully comply with the provisions of**
73 **subsection 6 of this section, the approved investment company's approval shall lapse and**
74 **the corresponding growth capital and credit-eligible capital contributions under this**
75 **division will not count toward the limits on total growth capital and credit-eligible capital**
76 **contributions under subsection 2 of this section. The department of agriculture shall first**
77 **award lapsed growth capital pro rata to each approved investment company that was**
78 **awarded less than its requested growth capital, which the approved investment company**
79 **may allocate to its investors in its discretion. Any remaining growth capital may be**
80 **awarded by the department of agriculture to new approved companies.**

81 **8. Application fees submitted to the department of agriculture shall be credited to**
82 **the Missouri Rural Jobs Fund. No other fee shall be charged for the administration of tax**
83 **credits by the department of agriculture or the department.**

620.1954. 1. There is hereby allowed a nonrefundable tax credit for taxpayers who
2 **make a credit-eligible capital contribution to an approved investment company and who**
3 **receive a tax credit certificate issued under subsection 5 of section 620.1953. The credit**
4 **may be claimed against taxes imposed under section 375.916 or chapters 143, 148, or 153,**
5 **excluding withholding tax imposed under sections 143.191 to 143.265. The credit shall not**
6 **be sold, transferred, or allocated to any other entity except an affiliate.**

7 **2. On the closing date, the taxpayer shall earn a vested credit equal to the amount**
8 **of the taxpayer's credit-eligible capital contribution to the approved investment company**
9 **as specified on the tax credit certificate. The taxpayer may claim up to twenty percent of**
10 **the credit authorized under this section for each of the five tax years occurring after July**
11 **1, 2018, exclusive of amounts carried forward under subsection 3 of this section.**

12 **3. If the amount of the credit for a tax year exceeds the taxpayer's tax liability for**
13 **that year, the excess shall be carried forward and claimed during the next five tax years.**
14 **A taxpayer claiming a credit under this section shall submit a copy of the tax credit**
15 **certificate with the taxpayer's return for each tax year the credit is claimed.**

16 **4. The maximum amount of credits claimed in any one year by all taxpayers shall**
17 **not exceed twenty million dollars, exclusive of amounts carried forward under subsection**
18 **3 of this section.**

620.1955. 1. The department shall revoke a tax credit certificate issued under
2 **section 620.1953 if any of the following occur with respect to an approved investment**
3 **company before it exits the program in accordance with subsection 5 of this section:**

4 **(1) The approved investment company does not invest one hundred percent of its**
5 **growth capital in funding within two years of the closing date;**

6 **(2) The approved investment company, after investing one hundred percent of its**
7 **growth capital in funding, fails to maintain that investment for the five years after the**
8 **closing date. An investment that is sold or repaid, in whole or in part, shall be deemed**
9 **maintained if the approved investment company reinvests an amount equal to the returned**
10 **or recovered portion, excluding any profits realized, in other funding within twelve months**
11 **of the receipt of the returned or recovered portion. Amounts received periodically by an**
12 **approved investment company shall be deemed continually invested in funding if the**
13 **amounts are reinvested in funding for one or more rural business concerns by the end of**
14 **the following calendar year;**

15 **(3) The approved investment company, before exiting the program, makes a**
16 **distribution or payment other than:**

17 **(a) A distribution of cash to one or more equity owners of the approved investment**
18 **company to fully or partially offset a projected increase in the owner's federal or state tax**
19 **liability, including any penalties and interest, related to the owner's ownership,**
20 **management, or operation of the approved investment company;**

21 **(b) A distribution of cash as payment of interest and principal on the debt of**
22 **the approved investment company, except to the extent the payment results in the**
23 **approved investment company having less than one hundred percent of its eligible growth**
24 **capital invested in fundings in Missouri or held in cash and other marketable securities;**

25

26 An approved investment company shall not make a distribution to a person or entity that
27 made a credit-eligible capital contribution prior to exiting the program;

28 (4) The approved investment company invests more than twenty percent of its
29 growth capital in the same rural business concern, including amounts invested in affiliates
30 of the rural business concern but excluding amounts reinvested in the rural business
31 concern with repaid or redeemed fundings, provided such reinvestments shall not count
32 toward the requirement of subsection 1 of this section; or

33 (5) The approved investment company invests funding in a rural business concern
34 that, directly or indirectly through an affiliate, owns, has the right to acquire an ownership
35 interest, makes a loan to, or makes an investment in the approved investment company, an
36 affiliate of the approved investment company, or an investor in the approved investment
37 company. This subsection shall not apply to investments in publicly traded securities by
38 a rural business concern or an owner or affiliate of such rural business concern. For
39 purposes of this subdivision, an approved investment company shall not be considered an
40 affiliate of a rural business concern solely as a result of its funding.

41 2. Before revoking one or more tax credit certificates under this division, the
42 department shall notify the approved investment company of the reasons for the pending
43 revocation. The approved investment company shall have ninety days from the date of
44 such notice to correct the violations to the satisfaction of the department and avoid
45 revocation of the tax credit certificate unless the approved investment company violated
46 the provisions under subdivision 1 of subsection 1 of this section. The approved investment
47 company shall be charged five thousand dollars per day for each day taken to correct the
48 violations, and such amounts shall be deposited in the Show Me Rural Jobs Fund.

49 3. If the department revokes a tax credit certificate, the department of revenue shall
50 make an assessment for the amount of the credit claimed by the certificate holder before
51 the certificate was revoked.

52 4. If tax credit certificates are revoked under this section, the associated growth
53 capital and credit-eligible capital contributions do not count toward the limit on total
54 growth capital and credit-eligible capital contributions described under subsection 2 of
55 section 620.1953. The department shall first award reverted growth capital pro rata to
56 each approved investment company that was awarded less than its requested growth
57 capital. Any remaining growth capital may be awarded by the department to new
58 approved investment companies.

59 5. After five years of the closing date, an approved investment company shall be
60 allowed to leave the program if none of the approved investments company's tax credit

61 certificates were revoked or are pending revocation. The department shall release an
62 approved investment company from the program and the regulations of this act within
63 thirty days of receiving a request to exit.

64 6. If state and local tax revenues fall short of the amount stated in the approved
65 investment company's application required under section 620.1953, the state shall receive
66 a share of any distribution, except those listed in the provisions under subdivision 3 of
67 subsection 1 of this section and any distributions made to return equity capital invested in
68 or capital loaned to the approved investment company that is not a credit-eligible capital
69 contribution, in the following percentages:

70 (1) Fifteen percent if the shortfall is at least sixty percent of the amount stated; or

71 (2) Thirty percent if the shortfall is less than sixty percent of the amount stated.

72 7. The department shall not revoke a tax credit certificate due to any actions of an
73 approved investment company that occur after the date the department acknowledges an
74 approved investment company's exit from the program.

620.1956. 1. Each approved investment company shall submit a report to the
2 department of agriculture and the department on or before the fifth business day after the
3 second anniversary of the closing date containing:

4 (1) The approved investment company's bank statements evidencing each funding;

5 (2) The name and location of each business receiving funding, including evidence
6 that the business qualified as a rural business concern at the time the investment was
7 made; and

8 (3) The number of employment positions created or retained as a result of the
9 approved investment company's fundings as of the December thirty-first of the preceding
10 year;

11 2. On or before April thirtieth of each year following the year in which the report
12 required under subsection 1 of this section is due, the approved investment company shall
13 submit an annual report to the department of agriculture and the department containing:

14 (1) The number of employment positions created or retained as a result of the
15 approved investment company's fundings as of December thirty-first of the preceding
16 calendar year;

17 (2) The average annual salary of such positions; and

18 (3) Any other information required by the department.

19 3. Any rule or portion of a rule, as that term is defined in section 536.010, that is
20 created under the authority delegated in this section shall become effective only if it
21 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
22 section 536.028. This section and chapter 536 are nonseverable, and if any of the powers

23 vested with the general assembly pursuant to chapter 536 to review, to delay the effective
24 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
25 grant of rulemaking authority and any rule proposed or adopted after August 28, 2016,
26 shall be invalid and void.

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