

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NOS. 133 & 583
102ND GENERAL ASSEMBLY

0599H.03C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 135, RSMo, by adding thereto one new section relating to a tax credit for certain live entertainment events, with an effective date.

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

Section A. Chapter 135, RSMo, is amended by adding thereto one new section, to be
2 known as section 135.753, to read as follows:

**135.753. 1. This section shall be known and may be cited as the "Entertainment
2 Industry Jobs Act".**

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

4 **(1) "Base investment", the aggregate funds actually invested and expended by a
5 Missouri taxpayer as a rehearsal expense or tour expense pursuant to this section;**

6 **(2) "Concert", a ticketed live performance of music in the physical presence of at
7 least one thousand individuals who view the performance live. For the purposes of this
8 subdivision, "ticketed" shall mean a concert where individual tickets for attendance are
9 offered for sale to the public;**

10 **(3) "Concert tour equipment", stage, set, scenery, design elements, automation,
11 rigging, trusses, spotlights, lighting, sound equipment, video equipment, special effects,
12 cases, communication devices, power distribution equipment, backline and other
13 miscellaneous equipment, or supplies used during a concert or rehearsal;**

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

15 **(5) "Expense", any expense, expenditure, cost, charge, or other disbursement or
16 spending of funds;**

17 **(6) "Facility", a site with one or more studios. Multiple studios at a single
18 location shall not be considered separate facilities. A site may include one or more**

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.

19 **buildings on the same property or properties within a five-mile radius, provided that the**
20 **properties' purpose and operations are interrelated and are owned or operated by the**
21 **same owner or operator, as applicable;**

22 **(7) "Facility full-time equivalent employee", an employee that is scheduled to**
23 **work an average of at least thirty-five hours per week and is located at the qualified**
24 **rehearsal facility, or a combination of two or more employees that combined, work an**
25 **average of at least thirty-five hours per week and are located at the qualified rehearsal**
26 **facility. An employee shall be considered to be located at the qualified rehearsal facility**
27 **if such employee spends fifty percent or more of the employee's work time at the**
28 **qualified rehearsal facility or at a nearby location serving the qualified rehearsal**
29 **facility, including a warehouse, located in Missouri and owned by the same owner or**
30 **operator, as applicable, of the qualified rehearsal facility. An employee that spends less**
31 **than fifty percent of the employee's work time at the qualified rehearsal facility or**
32 **nearby location shall be considered to be located at a qualified rehearsal facility if the**
33 **employee receives his or her directions and control from the qualified rehearsal facility**
34 **and is on the qualified rehearsal facility's payroll;**

35 **(8) "Minimum rehearsal and tour requirements", the occurrence of all of the**
36 **following during a rehearsal or tour:**

37 **(a) The purchase or rental of concert tour equipment, related services, or both,**
38 **in an amount of at least one million dollars from a Missouri vendor for use in the**
39 **rehearsal, on the tour, or both;**

40 **(b) A rehearsal at a qualified rehearsal facility for a minimum of ten days; and**

41 **(c) The holding of at least two concerts in the state of Missouri;**

42 **(9) "Missouri vendor", an individual or entity located in and maintaining a place**
43 **of business in this state. Only transactions made through a Missouri location of a**
44 **Missouri vendor shall constitute a transaction with a Missouri vendor for the purposes**
45 **of this section;**

46 **(10) "Nonresident", the same meaning as defined pursuant to section 143.101;**

47 **(11) "Pass-through entity", any incorporated or unincorporated entity that has**
48 **or elects pass-through taxation under federal law, including, without limitation, a**
49 **partnership, S corporation, or unincorporated entity with or that elects pass-through**
50 **taxation;**

51 **(12) "Qualified rehearsal facility", a facility primarily used for rehearsals**
52 **located in this state and which meets all of the following criteria:**

53 **(a) Has a minimum of twelve thousand five hundred square feet of column-free,**
54 **unobstructed floor space in at least one rehearsal studio in the facility;**

55 **(b) Has had a minimum of eight million dollars invested in the facility in land or**
56 **structure, or a combination of land and structure;**

57 **(c) Has a permanent grid system with a capacity of a minimum of five hundred**
58 **thousand pounds in at least one rehearsal studio in the facility;**

59 **(d) Has a height from floor to permanent grid of a minimum of fifty feet in at**
60 **least one rehearsal studio in the facility;**

61 **(e) Has at least one sliding or roll-up access door with a minimum height of**
62 **fourteen feet in the facility;**

63 **(f) Has a security system which includes seven-days-a-week security cameras**
64 **and the use of access control identification badges;**

65 **(g) Has a service area with production offices, catering, and dressing rooms with**
66 **a minimum of five thousand square feet; and**

67 **(h) Is owned or operated by an entity that employs, on average on an annual**
68 **basis, at least eighty facility full-time equivalent employees;**

69

70 **A qualified rehearsal facility shall not include a facility at which concerts are regularly**
71 **held;**

72 **(13) "Resident", the same meaning as defined pursuant to section 143.101;**

73 **(14) "Rehearsal", an event or series of events which occur in preparation for a**
74 **tour prior to the start of the tour or during a tour when additional preparation may be**
75 **needed;**

76 **(15) "Rehearsal expenses", includes all of the following when incurred or when**
77 **such expenses will be incurred during a rehearsal:**

78 **(a) Total aggregate payroll;**

79 **(b) Payment to a personal service corporation representing individual talent;**

80 **(c) Payment to a pass-through entity representing individual talent;**

81 **(d) Expenses related to construction, operations, editing, photography, staging,**
82 **lighting, wardrobe, and accessories;**

83 **(e) The leasing of vehicles from a Missouri vendor;**

84 **(f) The transportation of people or concert tour equipment to or from a train**
85 **station, bus depot, airport, or other transportation location, or from a residence or**
86 **business entity;**

87 **(g) Insurance coverage for an entire tour if the insurance coverage is purchased**
88 **or will be purchased through an insurance agent that is a Missouri vendor;**

89 **(h) Food and lodging from a Missouri vendor;**

90 **(i) The purchase or rental of concert tour equipment from a Missouri vendor;**

91 **(j) The rental of a qualified rehearsal facility; and**

92 (k) Emergency or medical support services required to conduct a rehearsal;

93 (16) "Total aggregate payroll", the total sum expended on salaries paid to
94 resident employees, regardless of whether such resident is working within or outside of
95 this state, or nonresident employees working within this state in one or more tours or
96 rehearsals, including, without limitation, payments to a loan-out company. For the
97 purposes of this subdivision:

98 (a) With respect to a single employee, the portion of any salary which exceeds
99 two million dollars in the aggregate for a single tour shall not be included when
100 calculating total aggregate payroll;

101 (b) All payments to a single employee and any legal entity in which the employee
102 has any direct or indirect ownership interest shall be considered as having been paid to
103 the employee and shall be aggregated regardless of the means of payment or
104 distribution; and

105 (c) Total aggregate payroll shall include payments to a loan-out company that
106 has met its withholding tax obligations as provided in this paragraph. The taxpayer
107 claiming the credit authorized pursuant to this section shall withhold Missouri income
108 tax at the rate imposed pursuant to section 143.071 on all payments to loan-out
109 companies for services performed in Missouri. Any amounts so withheld shall be
110 deemed to have been withheld by the loan-out company on wages paid to its employees
111 for services performed in Missouri, notwithstanding any exclusions under Missouri law
112 for short-term employment of nonresident workers, out-of-state businesses, or
113 otherwise. The amounts so withheld shall be allocated to the loan-out company's
114 employees based on the payments made to the loan-out company's employees for
115 services performed in Missouri. For the purposes of this section, loan-out company
116 nonresident employees performing services in Missouri shall be considered taxable
117 nonresidents and the loan-out company shall be subject to income taxation in the
118 taxable year in which the loan-out company's employees perform services in Missouri,
119 notwithstanding any other provisions of chapter 143. Such withholding liability shall be
120 subject to penalties and interest in the same manner as the employee withholding taxes
121 imposed under chapter 143, and the department of revenue shall provide by regulation
122 the manner in which such liability shall be assessed and collected;

123 (17) "Tour", a series of concerts or other performances performed or to be
124 performed by a musical or other live performer, including at least one rehearsal, in one
125 or more locations over multiple days;

126 (18) "Tour expenses", expenses incurred or which will be incurred during a tour
127 including venues located in this state, including:

128 (a) Total aggregate payroll;

129 **(b) The transportation of people or concert tour equipment to or from a train**
130 **station, bus depot, airport, or other transportation location, or from a residence or**
131 **business entity located in this state, or which is purchased or will be purchased from a**
132 **Missouri vendor;**

133 **(c) The leasing of vehicles provided by a Missouri vendor;**

134 **(d) The purchasing or rental of facilities and equipment from or through a**
135 **Missouri vendor;**

136 **(e) Food and lodging which is incurred or will be incurred from a Missouri**
137 **vendor;**

138 **(f) Marketing or advertising a tour at venues located within this state;**

139 **(g) Merchandise which is purchased or will be purchased from a Missouri**
140 **vendor and used on the tour;**

141 **(h) Payments made or that will be made to a personal service corporation**
142 **representing individual talent if income tax will be paid or accrued on the net income of**
143 **the corporation for the taxable year pursuant to chapter 143; and**

144 **(i) Payments made or that will be made to a pass-through entity representing**
145 **individual talent for which withholding tax will be withheld by the pass-through entity**
146 **on the payment as required pursuant to chapter 143;**

147

148 **"Tour expenses" shall not include development expenses, including the writing of music**
149 **or lyrics, or any expenses claimed by a taxpayer as rehearsal expenses.**

150 **3. (1) For all tax years beginning on or after January 1, 2024, a taxpayer shall be**
151 **allowed a tax credit for rehearsal expenses and tour expenses incurred by the taxpayer.**
152 **The amount of the tax credit shall be equal to thirty percent of the taxpayer's base**
153 **investment, subject to the limitations provided in subsection 6 of this section. No tax**
154 **credit shall be authorized for rehearsal expenses or tour expenses related to a rehearsal**
155 **or tour that does not meet the minimum rehearsal and tour requirements.**

156 **(2) Tax credits issued pursuant to this section shall not be refundable. Any**
157 **amount of tax credit that exceeds the tax liability for a taxpayer's tax year may be**
158 **carried forward to any of the taxpayer's five subsequent taxable years.**

159 **4. (1) Tax credits authorized pursuant to this section may be transferred or sold**
160 **in whole or in part by the taxpayer that claimed the tax credit, provided that the tax**
161 **credit is transferred or sold to another Missouri taxpayer.**

162 **(2) A transferor may make one or more transfers or sales of tax credits claimed**
163 **in a taxable year, and such transfers or sales may involve one or more transferees.**

164 **(3) A transferor shall submit to the department and to the department of**
165 **revenue a written notification of any transfer or sale of tax credits within thirty days**

166 after the transfer or sale of such tax credits. Such notification shall include the amount
167 of the transferor's unredeemed tax credits prior to transfer, the tax credit identifying
168 certificate number or other relevant identifying information, the remaining amount of
169 unredeemed tax credits after transfer, all tax identification numbers for each transferee,
170 the date of transfer, the amount transferred, and any other information required by the
171 department or the department of revenue.

172 (4) The transfer or sale of a tax credit authorized pursuant to this section shall
173 not extend the time in which such tax credit may be redeemed. The carry-forward
174 period for a tax credit that is transferred or sold shall begin on the date on which the tax
175 credit was originally issued.

176 (5) A transferee shall have only such rights to claim and redeem the tax credit
177 that was available to such transferor at the time of the transfer, except for the transfer
178 use of the tax credit authorized in subdivision (1) of this subsection. To the extent that
179 such transferor did not have rights to claim or redeem the tax credit at the time of the
180 transfer, the department of revenue shall either disallow the tax credit claimed by the
181 transferee or recapture the tax credit from the transferee. The transferee's recourse
182 shall be against such transferor.

183 (6) Tax credits shall not be transferred or sold for less than sixty percent of the
184 value of such tax credits.

185 (7) A taxpayer failing to comply with the provisions of this subsection shall not
186 be able to redeem a tax credit until such taxpayer is in full compliance.

187 5. The tax credits authorized pursuant to this section shall be subject to the
188 following conditions and limitations:

189 (1) The tax credit may be taken beginning with the taxable year in which the
190 taxpayer earning the tax credit has met the requirements provided pursuant to this
191 section. For each year in which such taxpayer either claims or transfers the tax credit,
192 the taxpayer shall attach a schedule to the taxpayer's Missouri income tax return which
193 shall include the following information:

194 (a) A description of the qualifying activities and expenses;

195 (b) A detailed listing of the employee names, Social Security numbers, and
196 Missouri wages when salaries are included in the base investment;

197 (c) The amount of the tax credit claimed pursuant to this section for the tax year;

198 (d) Any tax credit previously taken by the taxpayer against Missouri income tax
199 liabilities;

200 (e) The amount of the tax credit carried over from prior years;

201 (f) The amount of the tax credit utilized by the taxpayer claiming the tax credit
202 in the current taxable year; and

203 (g) The amount of the tax credit to be carried over to subsequent tax years;

204 (2) In the initial tax year in which the taxpayer claims the credit authorized
205 pursuant to this section, the taxpayer shall include a description of the qualifying
206 activities and expenses that demonstrates that the minimum rehearsal and tour
207 requirements are met; and

208 (3) Any taxpayer claiming, transferring, or selling a tax credit pursuant to this
209 section shall be required to reimburse the department of revenue for any department-
210 initiated audits relating to the tax credit. The provisions of this subdivision shall not
211 apply to routine tax audits of a taxpayer which may include the review of the tax credit
212 authorized pursuant to this section.

213 6. (1) The aggregate amount of tax credits that may be authorized in a given
214 fiscal year pursuant to this section shall not exceed eight million dollars. If the amount
215 of tax credits applied for by taxpayers exceeds such amount, the department may, at its
216 discretion, authorize additional tax credits in an amount not to exceed two million
217 dollars in such fiscal year, provided that the maximum amount of tax credits that may
218 be authorized during the subsequent fiscal year shall be reduced by the amount of
219 additional tax credits that the department authorizes.

220 (2) Notwithstanding the provisions of subdivision (1) of subsection 3 of this
221 section to the contrary, the amount of tax credits claimed by a taxpayer pursuant to this
222 section during a fiscal year shall not exceed the following amounts:

223 (a) If a taxpayer's base investment is less than four million dollars, the taxpayer
224 shall not be awarded more than one million dollars in tax credits in a fiscal year;

225 (b) If a taxpayer's base investment is at least four million dollars but less than
226 eight million dollars, the taxpayer shall not be awarded more than two million dollars in
227 tax credits in a fiscal year; and

228 (c) If a taxpayer's base investment is at least eight million dollars, the taxpayer
229 shall not be awarded more than three million dollars in tax credits in a fiscal year.

230 7. The department shall promulgate such rules and regulations as are necessary
231 to implement and administer the provisions of this section. Any rule or portion of a
232 rule, as that term is defined in section 536.010, that is created under the authority
233 delegated in this section shall become effective only if it complies with and is subject to
234 all of the provisions of chapter 536 and, if applicable, section 536.028. This section and
235 chapter 536 are nonseverable and if any of the powers vested with the general assembly
236 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul
237 a rule are subsequently held unconstitutional, then the grant of rulemaking authority
238 and any rule proposed or adopted after August 28, 2023, shall be invalid and void.

239 8. Pursuant to section 23.253 of the Missouri sunset act:

240 (1) The program authorized pursuant to this section shall automatically sunset
241 on December 31, 2030, unless reauthorized by an act of the general assembly;

242 (2) If such program is reauthorized, the program authorized pursuant to this
243 section shall automatically sunset on December thirty-first, twelve years after the
244 effective date of the reauthorization;

245 (3) This section shall terminate on September first of the calendar year
246 immediately following the calendar year in which the program authorized pursuant to
247 this section is sunset; and

248 (4) The provisions of this subsection shall not be construed to limit or in any way
249 impair the department's ability to redeem tax credits authorized on or before the date
250 the program authorized pursuant to this section expires or a taxpayer's ability to
251 redeem such tax credits.

252 9. (1) Notwithstanding the provisions of subsection 8 of this section, the
253 provisions of this section shall automatically terminate and expire ninety days after the
254 department determines that all other state and local governments in the United States of
255 America have terminated or let lapse their tax credit or other governmental incentive
256 program for the music or performance entertainment industries, regardless of whether
257 such credits or programs are now in effect or first commence after the effective date of
258 this section. The department shall notify the revisor of statutes upon the department's
259 determination that the tax credit authorized by this section shall terminate pursuant to
260 this subsection.

261 (2) The provisions of this subsection shall not be construed to limit or in any way
262 impair the ability of any taxpayer that has met the requirements in this section prior to
263 the termination of this section to participate in the program authorized under this
264 section. The provisions of this section shall not be construed to limit or in any way
265 impair the department's ability to redeem tax credits qualified for on or before the date
266 the program authorized pursuant to this section expires.

Section B. Section A of this act shall become effective January 1, 2024.

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