

SECOND REGULAR SESSION

SENATE BILL NO. 718

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KENNEDY.

Pre-filed December 1, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

3497S.011

AN ACT

To repeal section 620.1881, RSMo, and to enact in lieu thereof one new section relating to job retention projects authorized under the Missouri Quality Jobs Act.

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

Section A. Section 620.1881, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 620.1881, to read as follows:

620.1881. 1. The department of economic development shall respond
2 within thirty days to a company who provides a notice of intent with either an
3 approval or a rejection of the notice of intent. The department shall give
4 preference to qualified companies and projects targeted at an area of the state
5 which has recently been classified as a disaster area by the federal
6 government. Failure to respond on behalf of the department of economic
7 development shall result in the notice of intent being deemed an approval for the
8 purposes of this section. A qualified company who is provided an approval for a
9 project shall be allowed a benefit as provided in this program in the amount and
10 duration provided in this section. A qualified company may receive additional
11 periods for subsequent new jobs at the same facility after the full initial period
12 if the minimum thresholds are met as set forth in sections 620.1875 to
13 620.1890. There is no limit on the number of periods a qualified company may
14 participate in the program, as long as the minimum thresholds are achieved and
15 the qualified company provides the department with the required reporting and
16 is in proper compliance for this program or other state programs. A qualified
17 company may elect to file a notice of intent to start a new project period
18 concurrent with an existing project period if the minimum thresholds are
19 achieved and the qualified company provides the department with the required

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 reporting and is in proper compliance for this program and other state programs;
21 however, the qualified company may not receive any further benefit under the
22 original approval for jobs created after the date of the new notice of intent, and
23 any jobs created before the new notice of intent may not be included as new jobs
24 for the purpose of benefit calculation in relation to the new approval.

25 2. Notwithstanding any provision of law to the contrary, any qualified
26 company that is awarded benefits under this program may not simultaneously
27 receive tax credits or exemptions under sections 135.100 to 135.150, sections
28 135.200 to 135.286, section 135.535, or sections 135.900 to 135.906, RSMo, at the
29 same project facility. The benefits available to the company under any other
30 state programs for which the company is eligible and which utilize withholding
31 tax from the new jobs of the company must first be credited to the other state
32 program before the withholding retention level applicable under the Missouri
33 quality jobs act will begin to accrue. These other state programs include, but are
34 not limited to, the new jobs training program under sections 178.892 to 178.896,
35 RSMo, the job retention program under sections 178.760 to 178.764, RSMo, the
36 real property tax increment allocation redevelopment act, sections 99.800 to
37 99.865, RSMo, or the Missouri downtown and rural economic stimulus act under
38 sections 99.915 to 99.980, RSMo. If any qualified company also participates in
39 the new jobs training program in sections 178.892 to 178.896, RSMo, the company
40 shall retain no withholding tax, but the department shall issue a refundable tax
41 credit for the full amount of benefit allowed under this subdivision. The calendar
42 year annual maximum amount of tax credits which may be issued to a qualifying
43 company that also participates in the new job training program shall be increased
44 by an amount equivalent to the withholding tax retained by that company under
45 the new jobs training program. However, if the combined benefits of the quality
46 jobs program and the new jobs training program exceed the projected state
47 benefit of the project, as determined by the department of economic development
48 through a cost-benefit analysis, the increase in the maximum tax credits shall be
49 limited to the amount that would not cause the combined benefits to exceed the
50 projected state benefit. Any taxpayer who is awarded benefits under this
51 program who knowingly hires individuals who are not allowed to work legally in
52 the United States shall immediately forfeit such benefits and shall repay the
53 state an amount equal to any state tax credits already redeemed and any
54 withholding taxes already retained.

55 3. The types of projects and the amount of benefits to be provided are:

56 (1) Small and expanding business projects: in exchange for the
57 consideration provided by the new tax revenues and other economic stimuli that
58 will be generated by the new jobs created by the program, a qualified company
59 may retain an amount equal to the withholding tax as calculated under
60 subdivision (32) of section 620.1878 from the new jobs that would otherwise be
61 withheld and remitted by the qualified company under the provisions of sections
62 143.191 to 143.265, RSMo, for a period of three years from the date the required
63 number of new jobs were created if the average wage of the new payroll equals
64 or exceeds the county average wage or for a period of five years from the date the
65 required number of new jobs were created if the average wage of the new payroll
66 equals or exceeds one hundred twenty percent of the county average wage;

67 (2) Technology business projects: in exchange for the consideration
68 provided by the new tax revenues and other economic stimuli that will be
69 generated by the new jobs created by the program, a qualified company may
70 retain an amount equal to a maximum of five percent of new payroll for a period
71 of five years from the date the required number of jobs were created from the
72 withholding tax of the new jobs that would otherwise be withheld and remitted
73 by the qualified company under the provisions of sections 143.191 to 143.265,
74 RSMo, if the average wage of the new payroll equals or exceeds the county
75 average wage. An additional one-half percent of new payroll may be added to the
76 five percent maximum if the average wage of the new payroll in any year exceeds
77 one hundred twenty percent of the county average wage in the county in which
78 the project facility is located, plus an additional one-half percent of new payroll
79 may be added if the average wage of the new payroll in any year exceeds one
80 hundred forty percent of the average wage in the county in which the project
81 facility is located. The department shall issue a refundable tax credit for any
82 difference between the amount of benefit allowed under this subdivision and the
83 amount of withholding tax retained by the company, in the event the withholding
84 tax is not sufficient to provide the entire amount of benefit due to the qualified
85 company under this subdivision. The calendar year annual maximum amount of
86 tax credits that may be issued to any qualified company for a project or
87 combination of projects is five hundred thousand dollars;

88 (3) High impact projects: in exchange for the consideration provided by
89 the new tax revenues and other economic stimuli that will be generated by the
90 new jobs created by the program, a qualified company may retain an amount from
91 the withholding tax of the new jobs that would otherwise be withheld and

92 remitted by the qualified company under the provisions of sections 143.191 to
93 143.265, RSMo, equal to three percent of new payroll for a period of five years
94 from the date the required number of jobs were created if the average wage of the
95 new payroll equals or exceeds the county average wage of the county in which the
96 project facility is located. The percentage of payroll allowed under this
97 subdivision shall be three and one-half percent of new payroll if the average wage
98 of the new payroll in any year exceeds one hundred twenty percent of the county
99 average wage in the county in which the project facility is located. The
100 percentage of payroll allowed under this subdivision shall be four percent of new
101 payroll if the average wage of the new payroll in any year exceeds one hundred
102 forty percent of the county average wage in the county in which the project
103 facility is located. An additional one percent of new payroll may be added to
104 these percentages if local incentives equal between ten percent and twenty-four
105 percent of the new direct local revenue; an additional two percent of new payroll
106 is added to these percentages if the local incentives equal between twenty-five
107 percent and forty-nine percent of the new direct local revenue; or an additional
108 three percent of payroll is added to these percentages if the local incentives equal
109 fifty percent or more of the new direct local revenue. The department shall issue
110 a refundable tax credit for any difference between the amount of benefit allowed
111 under this subdivision and the amount of withholding tax retained by the
112 company, in the event the withholding tax is not sufficient to provide the entire
113 amount of benefit due to the qualified company under this subdivision. The
114 calendar year annual maximum amount of tax credits that may be issued to any
115 qualified company for a project or combination of projects is seven hundred fifty
116 thousand dollars. The calendar year annual maximum amount of tax credit that
117 may be issued to any qualified company for a project or combination of projects
118 may be increased up to one million dollars if the number of new jobs will exceed
119 five hundred and if such action is proposed by the department and approved by
120 the quality jobs advisory task force established in section 620.1887; provided,
121 however, until such time as the initial at-large members of the quality jobs
122 advisory task force are appointed, this determination shall be made by the
123 director of the department of economic development. In considering such a
124 request, the task force shall rely on economic modeling and other information
125 supplied by the department when requesting the increased limit on behalf of the
126 project;

127 (4) Job retention projects: a qualified company may receive a tax credit

128 for the retention of jobs in this state, provided the qualified company and the
129 project meets all of the following conditions:

130 (a) For each of the twenty-four months preceding the year in which
131 application for the program is made the qualified company must have maintained
132 at least one thousand full-time employees at the employer's site in the state at
133 which the jobs are based, and the average wage of such employees must meet or
134 exceed the county average wage;

135 (b) The qualified company retained at the project facility the level of
136 full-time employees that existed in the taxable year immediately preceding the
137 year in which application for the program is made;

138 (c) The qualified company is considered to have a significant statewide
139 effect on the economy, and has been determined to represent a substantial risk
140 of relocation from the state by the quality jobs advisory task force established in
141 section 620.1887; provided, however, until such time as the initial at-large
142 members of the quality jobs advisory task force are appointed, this determination
143 shall be made by the director of the department of economic development;

144 (d) The qualified company in the project facility will cause to be invested
145 a minimum of seventy million dollars in new investment prior to the end of two
146 years or will cause to be invested a minimum of thirty million dollars in new
147 investment prior to the end of two years and maintain an annual payroll of at
148 least seventy million dollars during each of the years for which a credit is
149 claimed; and

150 (e) The local taxing entities shall provide local incentives of at least fifty
151 percent of the new direct local revenues created by the project over a ten-year
152 period.

153 The quality jobs advisory task force may recommend to the department of
154 economic development that appropriate penalties be applied to the company for
155 violating the agreement. The amount of the job retention credit granted may be
156 equal to up to fifty percent of the amount of withholding tax generated by the
157 full-time jobs at the project facility for a period of five years. The calendar year
158 annual maximum amount of tax credit that may be issued to any qualified
159 company for a job retention project or combination of job retention projects shall
160 be seven hundred fifty thousand dollars per year, but the maximum amount may
161 be increased up to one million dollars if such action is proposed by the
162 department and approved by the quality jobs advisory task force established in
163 section 620.1887; provided, however, until such time as the initial at-large

164 members of the quality jobs advisory task force are appointed, this determination
165 shall be made by the director of the department of economic development. In
166 considering such a request, the task force shall rely on economic modeling and
167 other information supplied by the department when requesting the increased
168 limit on behalf of the job retention project. In no event shall the total amount of
169 all tax credits issued for the entire job retention program under this subdivision
170 exceed three million dollars annually. Notwithstanding the above, no tax credits
171 shall be issued for job retention projects approved by the department after August
172 30, [2007] **2013**;

173 (5) Small business job retention and flood survivor relief: a qualified
174 company may receive a tax credit under sections 620.1875 to 620.1890 for the
175 retention of jobs and flood survivor relief in this state for each job retained over
176 a three-year period, provided that:

177 (a) The qualified company did not receive any state or federal benefits,
178 incentives, or tax relief or abatement in locating its facility in a flood plain;

179 (b) The qualified company and related companies have fewer than one
180 hundred employees at the time application for the program is made;

181 (c) The average wage of the qualified company's and related companies'
182 employees must meet or exceed the county average wage;

183 (d) All of the qualified company's and related companies' facilities are
184 located in this state;

185 (e) The facilities at the primary business site in this state have been
186 directly damaged by floodwater rising above the level of a five hundred year flood
187 at least two years, but fewer than eight years, prior to the time application is
188 made;

189 (f) The qualified company made significant efforts to protect the facilities
190 prior to any impending danger from rising floodwaters;

191 (g) For each year it receives tax credits under sections 620.1875 to
192 620.1890, the qualified company and related companies retained, at the
193 company's facilities in this state, at least the level of full-time, year-round
194 employees that existed in the taxable year immediately preceding the year in
195 which application for the program is made; and

196 (h) In the years it receives tax credits under sections 620.1875 to
197 620.1890, the company cumulatively invests at least two million dollars in capital
198 improvements in facilities and equipment located at such facilities that are not
199 located within a five hundred year flood plain as designated by the Federal

200 Emergency Management Agency, and amended from time to time.
201 The amount of the small business job retention and flood survivor relief credit
202 granted may be equal to up to one hundred percent of the amount of withholding
203 tax generated by the full-time jobs at the project facility for a period of three
204 years. The calendar year annual maximum amount of tax credit that may be
205 issued to any qualified company for a small business job retention and survivor
206 relief project shall be two hundred fifty thousand dollars per year, but the
207 maximum amount may be increased up to five hundred thousand dollars if such
208 action is proposed by the department and approved by the quality jobs advisory
209 task force established in section 620.1887. In considering such a request, the
210 task force shall rely on economic modeling and other information supplied by the
211 department when requesting an increase in the limit on behalf of the small
212 business job retention and flood survivor relief project. In no event shall the total
213 amount of all tax credits issued for the entire small business job retention and
214 flood survivor relief program under this subdivision exceed five hundred thousand
215 dollars annually. Notwithstanding the provisions of this subdivision to the
216 contrary, no tax credits shall be issued for small business job retention and flood
217 survivor relief projects approved by the department after August 30, 2010.

218 4. The qualified company shall provide an annual report of the number
219 of jobs and such other information as may be required by the department to
220 document the basis for the benefits of this program. The department may
221 withhold the approval of any benefits until it is satisfied that proper
222 documentation has been provided, and shall reduce the benefits to reflect any
223 reduction in full-time employees or new payroll. Upon approval by the
224 department, the qualified company may begin the retention of the withholding
225 taxes when it reaches the minimum number of new jobs and the average wage
226 exceeds the county average wage. Tax credits, if any, may be issued upon
227 satisfaction by the department that the qualified company has exceeded the
228 county average wage and the minimum number of new jobs. In such annual
229 report, if the average wage is below the county average wage, the qualified
230 company has not maintained the employee insurance as required, or if the
231 number of new jobs is below the minimum, the qualified company shall not
232 receive tax credits or retain the withholding tax for the balance of the benefit
233 period. In the case of a qualified company that initially filed a notice of intent
234 and received an approval from the department for high impact benefits and the
235 minimum number of new jobs in an annual report is below the minimum for high

236 impact projects, the company shall not receive tax credits for the balance of the
237 benefit period but may continue to retain the withholding taxes if it otherwise
238 meets the requirements of a small and expanding business under this program.

239 5. The maximum calendar year annual tax credits issued for the entire
240 program shall not exceed forty million dollars. Notwithstanding any provision of
241 law to the contrary, the maximum annual tax credits authorized under section
242 135.535, RSMo, are hereby reduced from ten million dollars to eight million
243 dollars, with the balance of two million dollars transferred to this
244 program. There shall be no limit on the amount of withholding taxes that may
245 be retained by approved companies under this program.

246 6. The department shall allocate the annual tax credits based on the date
247 of the approval, reserving such tax credits based on the department's best
248 estimate of new jobs and new payroll of the project, and the other factors in the
249 determination of benefits of this program. However, the annual issuance of tax
250 credits is subject to the annual verification of the actual new payroll. The
251 allocation of tax credits for the period assigned to a project shall expire if, within
252 two years from the date of commencement of operations, or approval if applicable,
253 the minimum thresholds have not been achieved. The qualified company may
254 retain authorized amounts from the withholding tax under this section once the
255 minimum new jobs thresholds are met for the duration of the project period. No
256 benefits shall be provided under this program until the qualified company meets
257 the minimum new jobs thresholds. In the event the qualified company does not
258 meet the minimum new job threshold, the qualified company may submit a new
259 notice of intent or the department may provide a new approval for a new project
260 of the qualified company at the project facility or other facilities.

261 7. For a qualified company with flow-through tax treatment to its
262 members, partners, or shareholders, the tax credit shall be allowed to members,
263 partners, or shareholders in proportion to their share of ownership on the last
264 day of the qualified company's tax period.

265 8. Tax credits may be claimed against taxes otherwise imposed by
266 chapters 143 and 148, RSMo, and may not be carried forward but shall be claimed
267 within one year of the close of the taxable year for which they were issued, except
268 as provided under subdivision (4) of subsection 3 of this section.

269 9. Tax credits authorized by this section may be transferred, sold, or
270 assigned by filing a notarized endorsement thereof with the department that
271 names the transferee, the amount of tax credit transferred, and the value received

272 for the credit, as well as any other information reasonably requested by the
273 department.

274 10. Prior to the issuance of tax credits, the department shall verify
275 through the department of revenue, or any other state department, that the tax
276 credit applicant does not owe any delinquent income, sales, or use tax or interest
277 or penalties on such taxes, or any delinquent fees or assessments levied by any
278 state department and through the department of insurance that the applicant
279 does not owe any delinquent insurance taxes. Such delinquency shall not affect
280 the authorization of the application for such tax credits, except that at issuance
281 credits shall be first applied to the delinquency and any amount issued shall be
282 reduced by the applicant's tax delinquency. If the department of revenue or the
283 department of insurance, or any other state department, concludes that a
284 taxpayer is delinquent after June fifteenth but before July first of any year and
285 the application of tax credits to such delinquency causes a tax deficiency on
286 behalf of the taxpayer to arise, then the taxpayer shall be granted thirty days to
287 satisfy the deficiency in which interest, penalties, and additions to tax shall be
288 tolled. After applying all available credits toward a tax delinquency, the
289 administering agency shall notify the appropriate department and that
290 department shall update the amount of outstanding delinquent tax owed by the
291 applicant. If any credits remain after satisfying all insurance, income, sales, and
292 use tax delinquencies, the remaining credits shall be issued to the applicant,
293 subject to the restrictions of other provisions of law.

294 11. Except as provided under subdivision (4) of subsection 3 of this
295 section, the director of revenue shall issue a refund to the qualified company to
296 the extent that the amount of credits allowed in this section exceeds the amount
297 of the qualified company's income tax.

298 12. An employee of a qualified company will receive full credit for the
299 amount of tax withheld as provided in section 143.211, RSMo.

300 13. If any provision of sections 620.1875 to 620.1890 or application thereof
301 to any person or circumstance is held invalid, the invalidity shall not affect other
302 provisions or application of these sections which can be given effect without the
303 invalid provisions or application, and to this end, the provisions of sections
304 620.1875 to 620.1890 are hereby declared severable.