

SECOND REGULAR SESSION

# SENATE BILL NO. 911

95TH GENERAL ASSEMBLY

---

---

INTRODUCED BY SENATOR SHIELDS.

Read 1st time February 8, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

4987S.011

---

---

## AN ACT

To repeal section 620.1881, RSMo, and to enact in lieu thereof one new section relating to the 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Section A. Section 620.1881, RSMo, is repealed and one new section  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. When a  
25 qualified company has filed and received approval of a notice of intent and  
26 subsequently files another notice of intent, the department shall apply the  
27 definition of project facility under subdivision (19) of section 620.1878 to the new  
28 notice of intent as well as all previously approved notices of intent and shall  
29 determine the application of the definitions of new job, new payroll, project  
30 facility base employment, and project facility base payroll accordingly.

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

56 projected state benefit. Any taxpayer who is awarded benefits under this  
57 program who knowingly hires individuals who are not allowed to work legally in  
58 the United States shall immediately forfeit such benefits and shall repay the  
59 state an amount equal to any state tax credits already redeemed and any  
60 withholding taxes already retained.

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

62 (1) Small and expanding business projects: in exchange for the  
63 consideration provided by the new tax revenues and other economic stimuli that  
64 will be generated by the new jobs created by the program, a qualified company  
65 may retain an amount equal to the withholding tax as calculated under  
66 subdivision (33) of section 620.1878 from the new jobs that would otherwise be  
67 withheld and remitted by the qualified company under the provisions of sections  
68 143.191 to 143.265, RSMo, for a period of three years from the date the required  
69 number of new jobs were created if the average wage of the new payroll equals  
70 or exceeds the county average wage or for a period of five years from the date the  
71 required number of new jobs were created if the average wage of the new payroll  
72 equals or exceeds one hundred twenty percent of the county average wage;

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

92           (3) High impact projects: in exchange for the consideration provided by  
93 the new tax revenues and other economic stimuli that will be generated by the  
94 new jobs created by the program, a qualified company may retain an amount from  
95 the withholding tax of the new jobs that would otherwise be withheld and  
96 remitted by the qualified company under the provisions of sections 143.191 to  
97 143.265, RSMo, equal to three percent of new payroll for a period of five years  
98 from the date the required number of jobs were created if the average wage of the  
99 new payroll equals or exceeds the county average wage of the county in which the  
100 project facility is located. For high-impact projects in a facility located within two  
101 adjacent counties, the new payroll shall equal or exceed the higher county  
102 average wage of the adjacent counties. The percentage of payroll allowed under  
103 this subdivision shall be three and one-half percent of new payroll if the average  
104 wage of the new payroll in any year exceeds one hundred twenty percent of the  
105 county average wage in the county in which the project facility is located. The  
106 percentage of payroll allowed under this subdivision shall be four percent of new  
107 payroll if the average wage of the new payroll in any year exceeds one hundred  
108 forty percent of the county average wage in the county in which the project  
109 facility is located. An additional one percent of new payroll may be added to  
110 these percentages if local incentives equal between ten percent and twenty-four  
111 percent of the new direct local revenue; an additional two percent of new payroll  
112 is added to these percentages if the local incentives equal between twenty-five  
113 percent and forty-nine percent of the new direct local revenue; or an additional  
114 three percent of payroll is added to these percentages if the local incentives equal  
115 fifty percent or more of the new direct local revenue. The department shall issue  
116 a refundable tax credit for any difference between the amount of benefit allowed  
117 under this subdivision and the amount of withholding tax retained by the  
118 company, in the event the withholding tax is not sufficient to provide the entire  
119 amount of benefit due to the qualified company under this subdivision;

120           (4) Job retention projects: a qualified company may receive a tax credit  
121 for the retention of jobs in this state, provided the qualified company and the  
122 project meets all of the following conditions:

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

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

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

137 (d) The qualified company in the project facility will cause to be invested  
138 a minimum of seventy million dollars in new investment prior to the end of two  
139 years or will cause to be invested a minimum of thirty million dollars in new  
140 investment prior to the end of two years and maintain an annual payroll of at  
141 least seventy million dollars during each of the years for which a credit is  
142 claimed; and

143 (e) The local taxing entities shall provide local incentives of at least fifty  
144 percent of the new direct local revenues created by the project over a ten-year  
145 period. The quality jobs advisory task force may recommend to the department  
146 of economic development that appropriate penalties be applied to the company for  
147 violating the agreement. The amount of the job retention credit granted may be  
148 equal to up to fifty percent of the amount of withholding tax generated by the  
149 full-time jobs at the project facility for a period of five years. The calendar year  
150 annual maximum amount of tax credit that may be issued to any qualified  
151 company for a job retention project or combination of job retention projects shall  
152 be seven hundred fifty thousand dollars per year, but the maximum amount may  
153 be increased up to one million dollars if such action is proposed by the  
154 department and approved by the quality jobs advisory task force established in  
155 section 620.1887; provided, however, until such time as the initial at-large  
156 members of the quality jobs advisory task force are appointed, this determination  
157 shall be made by the director of the department of economic development. In  
158 considering such a request, the task force shall rely on economic modeling and  
159 other information supplied by the department when requesting the increased  
160 limit on behalf of the job retention project. In no event shall the total amount of  
161 all tax credits issued for the entire job retention program under this subdivision  
162 exceed three million dollars annually. Notwithstanding the above, no tax credits  
163 shall be issued for job retention projects approved by the department after August

164 30, 2013;

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

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

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

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

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

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

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

183 (g) For each year it receives tax credits under sections 620.1875 to  
184 620.1890, the qualified company and related companies retained, at the  
185 company's facilities in this state, at least the level of full-time, year-round  
186 employees that existed in the taxable year immediately preceding the year in  
187 which application for the program is made; and

188 (h) In the years it receives tax credits under sections 620.1875 to  
189 620.1890, the company cumulatively invests at least two million dollars in capital  
190 improvements in facilities and equipment located at such facilities that are not  
191 located within a five hundred year flood plain as designated by the Federal  
192 Emergency Management Agency, and amended from time to time. The amount  
193 of the small business job retention and flood survivor relief credit granted may  
194 be equal to up to one hundred percent of the amount of withholding tax generated  
195 by the full-time jobs at the project facility for a period of three years. The  
196 calendar year annual maximum amount of tax credit that may be issued to any  
197 qualified company for a small business job retention and survivor relief project  
198 shall be two hundred fifty thousand dollars per year, but the maximum amount  
199 may be increased up to five hundred thousand dollars if such action is proposed

200 by the department and approved by the quality jobs advisory task force  
201 established in section 620.1887. In considering such a request, the task force  
202 shall rely on economic modeling and other information supplied by the  
203 department when requesting an increase in the limit on behalf of the small  
204 business job retention and flood survivor relief project. In no event shall the total  
205 amount of all tax credits issued for the entire small business job retention and  
206 flood survivor relief program under this subdivision exceed five hundred thousand  
207 dollars annually. Notwithstanding the provisions of this subdivision to the  
208 contrary, no tax credits shall be issued for small business job retention and flood  
209 survivor relief projects approved by the department after August 30, 2010.

210 **(6) Show-me fund projects: in exchange for the consideration**  
211 **provided by the new tax revenues and other economic stimuli that will**  
212 **be generated by the new jobs created by a project, a qualified company**  
213 **that meets the criteria for a small and expanding, technology, or high-**  
214 **impact project, may, at the discretion of the director, and in lieu of all**  
215 **other benefits under this section, be considered for eligibility as a**  
216 **"show-me fund project".**

217 **(a) In order to be considered for benefits under the provisions**  
218 **of this subdivision a qualified company shall:**

219 **a. Propose that a minimum of ten million dollars in new capital**  
220 **investment be made and one hundred new jobs be created for a high-**  
221 **impact project;**

222 **b. Propose that a minimum of two million dollars in new capital**  
223 **investment be made and ten new jobs be created for a technology**  
224 **business project; or**

225 **c. Propose that a minimum of one hundred thousand dollars in**  
226 **capital investment be made and twenty new jobs in the case of a rural**  
227 **area, or forty new jobs in the case of an urban area, be created for a**  
228 **small and expanding business project; and**

229 **d. Provide evidence of commitments for financing such new**  
230 **capital investment prior to approval of the project; and**

231 **e. Make new capital investment within three years of the date of**  
232 **approval of such company's notice of intent. For purposes of this**  
233 **subdivision, "New capital investment" shall include funds spent by the**  
234 **qualified company at the project facility after the approval date for**  
235 **real or personal property, and may include the present value of finance**  
236 **or capital leases for real or personal property at the project facility**

237 executed after the approval date.

238 (b) Except in the case of small and expanding business projects,  
239 local taxing entities shall provide local incentives in an amount equal  
240 no less than fifty percent of the new direct local revenues created by  
241 the project during the performance period.

242 (c) The director shall consider the following factors in  
243 determining whether to approve show-me fund tax credits, and if so, in  
244 what amount:

245 a. The creditworthiness of the qualified company and the  
246 likelihood that it will fulfill the required commitments under the  
247 contract;

248 b. The projected net fiscal benefit to the state of the project,  
249 after deducting all incentives and costs paid by the state;

250 c. The proposed wages, and growth potential of the qualified  
251 company;

252 d. The potential multiplier effect of the project, and other like  
253 factors;

254 e. The provision of incentives for the project from local taxing  
255 entities relative to their capacity to provide such incentives;

256 f. The economic condition of the county in which the project will  
257 be located; and

258 g. Whether the project would occur, but for the award of show-  
259 me fund tax credits.

260 (d) Upon approval by the director of an application for show-me  
261 fund tax credits submitted by the qualified company, the department  
262 and the qualified company shall enter into a contract for the period of  
263 time which shall constitute the performance period. Such contract  
264 shall specify:

265 a. The committed number of new jobs, new payroll, and capital  
266 investment for each year during the performance period;

267 b. The date or time period during which tax credits shall be  
268 issued, which may occur immediately or over a period not to exceed  
269 three years from the date of approval of the notice of intent;

270 c. Repayment provisions, if applicable; and

271 d. Recapture provisions applicable in the event of default or  
272 noncompliance, which shall define default as a failure to meet statutory  
273 requirements or contractual thresholds within prescribed terms



274 causing a full repayment, plus interest, and define noncompliance as a  
275 failure to maintain statutory requirements or contractual thresholds  
276 for prescribed terms causing a prorata repayment, plus interest.

277 (e) Upon entering into a contract with a qualified company  
278 under the provisions of paragraph (d) of this subdivision, the director  
279 may issue refundable tax credits in an amount not to exceed the total  
280 amount of projected withholding taxes of new jobs at the project  
281 facility over a period not to exceed twelve years from the date such  
282 company meets its job, payroll, and capital investment targets,  
283 provided that in the case of a project which meets the criteria of a  
284 small and expanding project and is deemed eligible for receipt of  
285 benefits under the provisions of this subsection, such tax credits shall  
286 not be issued over a period of years to exceed five years, from the date  
287 such company meets its job, payroll, and capital investment  
288 targets. The director shall award the minimum amount of tax credits  
289 necessary to obtain the company's commitment to initiate a project. If  
290 the qualified company is unable to obtain sufficient financing to  
291 complete the project, the director may award show-me fund tax credits,  
292 but shall require that the face amount of such credits be repaid to the  
293 state general revenue fund, with a rate of interest, terms, and other  
294 conditions to be determined at the discretion of the director. If the  
295 director determines that the qualified company would locate the  
296 project in another state, but for the award of show-me fund tax credits,  
297 the director may award show-me fund tax credits with no requirement  
298 that repayment be made.

299 (f) The maximum amount of show-me fund tax credits that may  
300 be authorized for all projects shall not exceed sixty million dollars per  
301 calendar year. A qualified company shall not receive tax credits under  
302 this subdivision for any project which also receives benefits under  
303 subdivisions (1) to (5) of this subsection, or under the BUILD program  
304 authorized pursuant to sections 100.700 to 100.850.

305 4. The qualified company shall provide an annual report of the number  
306 of jobs and such other information as may be required by the department to  
307 document the basis for the benefits of this program. The department may  
308 withhold the approval of any benefits until it is satisfied that proper  
309 documentation has been provided, and shall reduce the benefits to reflect any  
310 reduction in full-time employees or new payroll. Upon approval by the

311 department, the qualified company may begin the retention of the withholding  
312 taxes when it reaches the minimum number of new jobs and the average wage  
313 exceeds the county average wage. Tax credits, if any, may be issued upon  
314 satisfaction by the department that the qualified company has exceeded the  
315 county average wage and the minimum number of new jobs. In such annual  
316 report, if the average wage is below the county average wage, the qualified  
317 company has not maintained the employee insurance as required, or if the  
318 number of new jobs is below the minimum, the qualified company shall not  
319 receive tax credits or retain the withholding tax for the balance of the benefit  
320 period. In the case of a qualified company that initially filed a notice of intent  
321 and received an approval from the department for high-impact benefits and the  
322 minimum number of new jobs in an annual report is below the minimum for  
323 high-impact projects, the company shall not receive tax credits for the balance of  
324 the benefit period but may continue to retain the withholding taxes if it otherwise  
325 meets the requirements of a small and expanding business under this program.

326 **5. Provisions of sections 100.700 to 100.850 to the contrary**  
327 **notwithstanding**, the maximum calendar year annual tax credits issued [for the  
328 entire program shall not exceed eighty million dollars] **under this section and**  
329 **sections 100.700 to 100.850, in the aggregate, shall not exceed one**  
330 **hundred five million dollars. The director of the department may**  
331 **allocate tax credits, available for issuance under the provisions of**  
332 **sections 100.700 to 100.850, for authorization and issuance under the**  
333 **provisions of subdivision (6) of subsection 3 of this section to the extent**  
334 **such allocation when totaled with the amount of tax credits issued**  
335 **under the provisions of sections 100.700 to 100.850 does not exceed the**  
336 **limitations provided under subsection 5 of section 100.850. The**  
337 **maximum calendar year annual tax credits issued for all projects**  
338 **authorized pursuant to subdivisions (1) to (5) of subsection 3 of this**  
339 **section shall not exceed the amount authorized for issuance as of**  
340 **August 28, 2010, unless the director determines that the amount of**  
341 **show-me fund tax credits to be issued during the calendar year shall be**  
342 **less than sixty million dollars, in which case the director may authorize**  
343 **additional tax credits for projects authorized pursuant to subdivisions**  
344 **(1) to (5) of subsection 3 of this section, up to a maximum of eighty**  
345 **million dollars in any calendar year. Notwithstanding any provision of law**  
346 to the contrary, the maximum annual tax credits authorized under section

347 135.535, RSMo, are hereby reduced from ten million dollars to eight million  
348 dollars, with the balance of two million dollars transferred to this  
349 program. There shall be no limit on the amount of withholding taxes that may  
350 be retained by approved companies under this program.

351 6. The department shall allocate the annual tax credits based on the date  
352 of the approval, reserving such tax credits based on the department's best  
353 estimate of new jobs and new payroll of the project, and the other factors in the  
354 determination of benefits of this program. However, the annual issuance of tax  
355 credits is subject to the annual verification of the actual new payroll. **Except as**  
356 **provided in subdivision (6) of subsection 3 of this section:**

357 (1) The allocation of tax credits for the period assigned to a project shall  
358 expire if, within two years from the date of commencement of operations, or  
359 approval if applicable, the minimum thresholds have not been achieved[.];

360 (2) The qualified company may retain authorized amounts from the  
361 withholding tax under this section once the minimum new jobs thresholds are met  
362 for the duration of the project period[.];

363 (3) No benefits shall be provided under this program until the qualified  
364 company meets the minimum new jobs thresholds[.];

365 (4) In the event the qualified company does not meet the minimum new  
366 job threshold, the qualified company may submit a new notice of intent or the  
367 department may provide a new approval for a new project of the qualified  
368 company at the project facility or other facilities.

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

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

377 9. Tax credits authorized by this section may be transferred, sold, or  
378 assigned by filing a notarized endorsement thereof with the department that  
379 names the transferee, the amount of tax credit transferred, and the value received  
380 for the credit, as well as any other information reasonably requested by the  
381 department.

382 10. Prior to the issuance of tax credits, the department shall verify

383 through the department of revenue, or any other state department, that the tax  
384 credit applicant does not owe any delinquent income, sales, or use tax or interest  
385 or penalties on such taxes, or any delinquent fees or assessments levied by any  
386 state department and through the department of insurance, financial institutions  
387 and professional registration that the applicant does not owe any delinquent  
388 insurance taxes. Such delinquency shall not affect the authorization of the  
389 application for such tax credits, except that at issuance credits shall be first  
390 applied to the delinquency and any amount issued shall be reduced by the  
391 applicant's tax delinquency. If the department of revenue or the department of  
392 insurance, financial institutions and professional registration, or any other state  
393 department, concludes that a taxpayer is delinquent after June fifteenth but  
394 before July first of any year and the application of tax credits to such delinquency  
395 causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall  
396 be granted thirty days to satisfy the deficiency in which interest, penalties, and  
397 additions to tax shall be tolled. After applying all available credits toward a tax  
398 delinquency, the administering agency shall notify the appropriate department  
399 and that department shall update the amount of outstanding delinquent tax owed  
400 by the applicant. If any credits remain after satisfying all insurance, income,  
401 sales, and use tax delinquencies, the remaining credits shall be issued to the  
402 applicant, subject to the restrictions of other provisions of law.

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

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

409           13. If any provision of sections 620.1875 to 620.1890 or application thereof  
410 to any person or circumstance is held invalid, the invalidity shall not affect other  
411 provisions or application of these sections which can be given effect without the  
412 invalid provisions or application, and to this end, the provisions of sections  
413 620.1875 to 620.1890 are hereby declared severable.

✓