

SECOND REGULAR SESSION

SENATE BILL NO. 691

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS ENGLER AND CALLAHAN.

Read 1st time January 24, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

5392S.011

AN ACT

To repeal sections 620.478 and 620.1910, RSMo, and to enact in lieu thereof two new sections relating to economic incentives for certain automotive suppliers.

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

Section A. Sections 620.478 and 620.1910, RSMo, are repealed and two
2 new sections enacted in lieu thereof, to be known as sections 620.478 and
3 620.1910, to read as follows:

620.478. 1. There is hereby established in the state treasury a special
2 fund to be known as the "Missouri Job Development Fund". The fund shall
3 consist of all moneys which may be appropriated to it by the general assembly
4 and also any gifts, contributions, grants or bequests received from federal, private
5 or other sources. Appropriations made from the fund shall be for the purpose of
6 providing contractual services through the department of elementary and
7 secondary education for vocational related training or retraining provided by
8 public or private training institutions within Missouri; and for contracted services
9 through the department of economic development for vocational related training
10 or retraining provided by public or private training institutions located outside
11 of Missouri; and for vocational related training or retraining provided on site,
12 within Missouri, by any proprietorship, partnership or corporate entity. Except
13 for state-sponsored preemployment training, no applicant shall receive more than
14 fifty percent of its project training or retraining costs from the development
15 fund. Moneys to operate the new or expanding industry training program, the
16 basic industry retraining program, the industry quality and productivity
17 improvement program and assistance to community college business and
18 technology centers shall be obtained from appropriations made by the general

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

19 assembly from the fund. No funds shall be awarded or reimbursed to any
20 industry for the training, retraining or upgrading of skills of potential employees
21 with the purpose of replacing or supplanting employees engaged in an authorized
22 work stoppage. **The department shall make efforts to prioritize the use**
23 **of funding available under this section to assist qualified suppliers, as**
24 **such term is defined under section 620.1910.**

25 2. The Missouri job development fund shall be able to receive any block
26 grant or other sources of funding relating to job training, school-to-work
27 transition, welfare reform, vocational and technical training, housing,
28 infrastructure development and human resource investment programs which may
29 be provided by the federal government or other sources.

620.1910. 1. This section shall be known and may be cited as the
2 "Manufacturing Jobs Act".

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

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

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

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

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

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

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

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

24 (8) "New job", the same meaning as such term is defined in section
25 620.1878;

26 (9) **"New payroll", the same meaning as such term is defined in**
27 **section 620.1878;**

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

33 **[(10)] (11) "Notice of intent", a form developed by the department,**
34 **completed by the qualified manufacturing company or qualified supplier and**
35 **submitted to the department which states the qualified manufacturing company's**
36 **or qualified supplier's intent to create new jobs or retain current jobs and make**
37 **additional capital investment, as applicable, and request benefits under this**
38 **section. The notice of intent shall specify the minimum number of such new or**
39 **retained jobs and the minimum amount of such capital investment;**

40 **(12) "Project facility", the building or buildings used by a**
41 **qualified supplier at which new jobs and any facility investment are or**
42 **will be located. A project facility may include separate buildings**
43 **located within sixty miles of each other such that their purpose and**
44 **operations are interrelated; provided, that where the buildings making**
45 **up the project facility are not located within the same county, the**
46 **average wage of the new jobs must exceed the highest county average**
47 **wage among the counties in which the buildings are located. Upon**
48 **approval by the department, a subsequent project facility may be**
49 **designated if the qualified supplier demonstrates a need to relocate to**
50 **the subsequent project facility at any time during the project period;**

51 **[(11)] (13) "Qualified manufacturing company", a business with a NAICS**
52 **code of 33611 that:**

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

54 (b) In the case of the manufacture of a new product, commits to make a
55 capital investment of at least seventy-five thousand dollars per retained job
56 within no more than two years of the date the qualified manufacturing company
57 begins to retain withholding tax under this section, or in the case of the
58 modification or expansion of the manufacture of an existing product, commits to
59 make a capital investment of at least fifty thousand dollars per retained job
60 within no more than two years of the date the qualified manufacturing company
61 begins to retain withholding tax under this section;

62 (c) Manufactures a new product or has commenced making capital
63 improvements to the facility necessary for the manufacturing of such new
64 product, or modifies or expands the manufacture of an existing product or has
65 commenced making capital improvements to the facility necessary for the
66 modification or expansion of the manufacture of such existing product; and

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

69 [(12)] (14) "Qualified supplier", a manufacturing company that:

70 (a) [Attests to the department that it derives more than ten percent of the
71 total annual sales of the company from sales to a qualified manufacturing
72 company;

73 (b)] **Manufactures goods at a facility in Missouri at which it adds**
74 **five or more new jobs;**

75 [(c)] (b) Has an average wage, as defined in section 135.950, for such new
76 jobs that are equal to or exceed the lower of the county average wage for Missouri
77 as determined by the department using NAICS industry classifications, but not
78 lower than sixty percent of the statewide average wage; [and

79 (d)] (c) Provides health insurance for all full-time jobs and pays at least
80 fifty percent of the premiums of such insurance; **and**

81 (d) **Attests to the department that it derives more than:**

82 a. **Ten percent of the total annual sales of the company from**
83 **sales to a qualified manufacturing company;**

84 b. **Ten percent of the total annual sales of the company from**
85 **sales of a product which ultimately becomes a component of a finished**
86 **product of a manufacturer with a NAICS code of 33611; or**

87 c. **Fifty percent of the total annual sales of the company from the**
88 **modification of a finished product of a manufacturer with a NAICS code**
89 **of 33611, for commercial or public use, under certification from such**
90 **manufacturer;**

91 [(13)] (15) "Retained job", the number of full-time jobs of persons
92 employed by the qualified manufacturing company located at the facility that
93 existed as of the last working day of the month immediately preceding the month
94 in which notice of intent is submitted;

95 [(14)] (16) "Statewide average wage", an amount equal to the quotient
96 of the sum of the total gross wages paid for the corresponding four calendar
97 quarters divided by the average annual employment for such four calendar

98 quarters, which shall be computed using the Quarterly Census of Employment
99 and Wages Data for All Private Ownership Businesses in Missouri, as published
100 by the Bureau of Labor Statistics of the United States Department of Labor;

101 ~~[(15)]~~ **(17)** "Withholding period", the seven- or ten-year period in which
102 a qualified manufacturing company may receive benefits under this section;

103 ~~[(16)]~~ **(18)** "Withholding tax", the same meaning as such term is defined
104 in section 620.1878.

105 3. The department shall respond within thirty days to a qualified
106 manufacturing company or a qualified supplier who provides a notice of intent
107 with either an approval or a rejection of the notice of intent. Failure to respond
108 on behalf of the department shall result in the notice of intent being deemed an
109 approval for the purposes of this section.

110 4. A qualified manufacturing company that manufactures a new product
111 may, upon the department's approval of a notice of intent and the execution of an
112 agreement that meets the requirements of subsection 9 of this section, but no
113 earlier than January 1, 2012, retain one hundred percent of the withholding tax
114 from full-time jobs at the facility for a period of ten years. A qualified
115 manufacturing company that modifies or expands the manufacture of an existing
116 product may, upon the department's approval of a notice of intent and the
117 execution of an agreement that meets the requirements of subsection 9 of this
118 section, but no earlier than January 1, 2012, retain fifty percent of the
119 withholding tax from full-time jobs at the facility for a period of seven
120 years. Except as otherwise allowed under subsection 7 of this section, the
121 commencement of the withholding period may be delayed by no more than
122 twenty-four months after execution of the agreement at the option of the qualified
123 manufacturing company. Such qualified manufacturing company shall be eligible
124 for participation in the Missouri quality jobs program in sections 620.1875 to
125 620.1890 for any new jobs for which it does not retain withholding tax under this
126 section, provided all qualifications for such program are met.

127 5. A qualified supplier may, upon approval of a notice of intent by the
128 department, retain [all withholding tax from new jobs for a period of three years
129 from the date of approval of the notice of intent or for a period of five years if the
130 supplier pays wages for the new jobs equal to or greater than one hundred twenty
131 percent of county average wage] **an amount equal to a maximum of five and**
132 **one-half percent of new payroll for a period of five years from the date**
133 **the required number of jobs were created in this state from the**

134 withholding tax of the new jobs that would otherwise be withheld and
135 remitted by the qualified supplier, if the average wage of the new jobs
136 equals or exceeds the county average wage. An additional one-half
137 percent of new payroll may be added to the five and one-half percent
138 maximum, if the average wage of the new jobs in any year exceeds one
139 hundred twenty percent of the county average wage in the county in
140 which the project facility is located, plus an additional one-half percent
141 of new payroll may be added, if the average wage of the new jobs in any
142 year exceeds one hundred forty percent of the average wage in the
143 county in which the project facility is located. The department shall
144 issue a refundable tax credit for any difference between the amount of
145 benefit allowed under this subsection and the amount of withholding
146 tax retained by the qualified supplier, in the event the withholding tax
147 is not sufficient to provide the entire amount of benefit due to the
148 qualified supplier under this subsection. Any tax credits issued under
149 this subsection shall be subject to the provisions of subsections 6 to 12
150 of section 620.1881. Notwithstanding any other provision of law to the
151 contrary, a qualified supplier that is awarded benefits under this section shall not
152 receive any tax credit or exemption or be entitled to retain withholding under
153 sections 100.700 to 100.850, sections 135.100 to 135.150, sections 135.200 to
154 135.286, section 135.535, sections 135.900 to 135.906, sections 135.950 to 135.970,
155 or section 620.1881 for the same jobs.

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

162 7. Notwithstanding any other provision of law to the contrary, any
163 qualified manufacturing company that is awarded benefits under this section
164 shall not simultaneously receive tax credits or exemptions under sections 100.700
165 to 100.850, sections 135.100 to 135.150, sections 135.200 to 135.286, section
166 135.535, or sections 135.900 to 135.906 for the jobs created or retained or capital
167 improvement which qualified for benefits under this section. The benefits
168 available to the qualified manufacturing company under any other state programs
169 for which the qualified manufacturing company is eligible and which utilize

170 withholding tax from the jobs at the facility shall first be credited to the other
171 state program before the applicable withholding period for benefits provided
172 under this section shall begin. These other state programs include, but are not
173 limited to, the new jobs training program under sections 178.892 to 178.896, the
174 job retention program under sections 178.760 to 178.764, the real property tax
175 increment allocation redevelopment act under sections 99.800 to 99.865, or the
176 Missouri downtown and rural economic stimulus act under sections 99.915 to
177 99.980. If any qualified manufacturing company also participates in the new jobs
178 training program in sections 178.892 to 178.896, such qualified manufacturing
179 company shall not retain any withholding tax that has already been allocated for
180 use in the new jobs training program. **If any qualified supplier also**
181 **participates in the new jobs training program in sections 178.892 to**
182 **178.896, the company shall retain no withholding tax, but the**
183 **department shall issue a refundable tax credit for the full amount of**
184 **benefit allowed under this section. The calendar year annual maximum**
185 **amount of tax credits which may be issued to a qualified supplier that**
186 **also participates in the new job training program shall be increased by**
187 **an amount equivalent to the withholding tax retained by that company**
188 **under the new jobs training program. However, if the combined**
189 **benefits of this program and the new jobs training program exceed the**
190 **projected state benefit of the project, as determined by the department**
191 **through a cost-benefit analysis, the increase in the maximum tax**
192 **credits shall be limited to the amount that would not cause the**
193 **combined benefits to exceed the projected state benefit.** Any qualified
194 manufacturing company or qualified supplier that is awarded benefits under this
195 program and knowingly hires individuals who are not allowed to work legally in
196 the United States shall immediately forfeit such benefits and shall repay the
197 state an amount equal to any withholding taxes already retained. Subsection 5
198 of section 285.530 shall not apply to qualified manufacturing companies or
199 qualified suppliers which are awarded benefits under this program.

200 8. The department may promulgate rules to implement the provisions of
201 this section. Any rule or portion of a rule, as that term is defined in section
202 536.010, that is created under the authority delegated in this section shall
203 become effective only if it complies with and is subject to all of the provisions of
204 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
205 nonseverable and if any of the powers vested with the general assembly under

chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section shall be invalid and void.

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

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

(2) If the qualified manufacturing company discontinues the manufacturing of the new product and does not replace it with a subsequent or additional new product manufactured at the facility at any time during the withholding period, the qualified manufacturing company shall immediately cease retaining any withholding tax with respect to jobs at that facility and it shall forfeit all rights to retain withholding tax for the remainder of the withholding period.

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

242 11. Under section 23.253 of the Missouri sunset act:

243 (1) The provisions of the new program authorized under this section shall
244 automatically sunset October 12, 2016, unless reauthorized by an act of the
245 general assembly; and

246 (2) If such program is reauthorized, the program authorized under this
247 section shall automatically sunset twelve years after the effective date of the
248 reauthorization of this section; and

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

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Bill

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