

FIRST REGULAR SESSION

SENATE BILL NO. 121

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR MUNZLINGER.

Pre-filed December 1, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0747S.01I

AN ACT

To amend chapter 620, RSMo, by adding thereto one new section relating to infrastructure investment.

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

Section A. Chapter 620, RSMo, is amended by adding thereto one new section, to be known as section 620.1920, to read as follows:

620.1920. 1. This section shall be known and may be cited as the "Manufacturing Infrastructure Investment Act".

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

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

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

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

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

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

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

(7) "NAICS industry classification", the most recent edition of the

22 North American Industry Classification System as prepared by the
23 Executive Office of the President, Office of Management and Budget;

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

26 (9) "New product", a new model or line of a manufactured good
27 that has not been manufactured in Missouri by the qualified
28 manufacturing company at any time prior to the date of the notice of
29 intent;

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

38 (11) "Qualified manufacturing company", a business with a NAICS
39 code of 31-33 that:

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

41 (b) In the case of the manufacture of a new product, commits to
42 make a capital investment of at least seventy-five thousand dollars per
43 retained job within no more than two years of the date the qualified
44 manufacturing company begins to retain withholding tax under this
45 section, or in the case of the modification or expansion of the
46 manufacture of an existing product, commits to make a capital
47 investment of at least fifty thousand dollars per retained job within no
48 more than two years of the date the qualified manufacturing company
49 begins to retain withholding tax under this section;

50 (c) Manufactures a new product or has commenced making
51 capital improvements to the facility necessary for the manufacturing
52 of such new product, or modifies or expands the manufacture of an
53 existing product or has commenced making capital improvements to
54 the facility necessary for the modification or expansion of the
55 manufacture of such existing product;

56 (d) Continues to meet the requirements of paragraphs (a) to (c)
57 of this subdivision for the withholding period; and

58 (e) Does not receive benefits under section 620.1910;

- 59 **(12) "Qualified supplier", a manufacturing company that:**
60 **(a) Attests to the department that it derives more than ten**
61 **percent of the total annual sales of the company from sales to a**
62 **qualified manufacturing company;**
63 **(b) Adds five or more new jobs;**
64 **(c) Has an average wage, as defined in section 135.950, for such**
65 **new jobs that is equal to or exceeds the lower of the county average**
66 **wage for Missouri as determined by the department using NAICS**
67 **industry classifications, but not lower than sixty percent of the**
68 **statewide average wage;**
69 **(d) Provides health insurance for all full-time jobs and pays at**
70 **least fifty percent of the premiums of such insurance; and**
71 **(e) Does not receive benefits under section 620.1910;**
72 **(13) "Retained job", the number of full-time jobs of persons**
73 **employed by the qualified manufacturing company located at the**
74 **facility that existed as of the last working day of the month**
75 **immediately preceding the month in which notice of intent is**
76 **submitted;**
77 **(14) "Statewide average wage", an amount equal to the quotient**
78 **of the sum of the total gross wages paid for the corresponding four**
79 **calendar quarters divided by the average annual employment for such**
80 **four calendar quarters, which shall be computed using the Quarterly**
81 **Census of Employment and Wages Data for All Private Ownership**
82 **Businesses in Missouri, as published by the Bureau of Labor Statistics**
83 **of the United States Department of Labor;**
84 **(15) "Withholding period", the seven- or ten-year period in which**
85 **a qualified manufacturing company may receive benefits under this**
86 **section;**
87 **(16) "Withholding tax", the same meaning as such term is defined**
88 **in section 620.1878.**
89 **3. The department shall respond within thirty days to a qualified**
90 **manufacturing company or a qualified supplier who provides a notice**
91 **of intent with either an approval or a rejection of the notice of**
92 **intent. Failure to respond on behalf of the department shall result in**
93 **the notice of intent being deemed an approval for the purposes of this**
94 **section.**
95 **4. A qualified manufacturing company that manufactures a new**

96 product may, upon the department's approval of a notice of intent and
97 the execution of an agreement that meets the requirements of
98 subsection 9 of this section, but no earlier than January 1, 2018, retain
99 one hundred percent of the withholding tax from full-time jobs at the
100 facility for a period of ten years. A qualified manufacturing company
101 that modifies or expands the manufacture of an existing product may,
102 upon the department's approval of a notice of intent and the execution
103 of an agreement that meets the requirements of subsection 9 of this
104 section, but no earlier than January 1, 2018, retain fifty percent of the
105 withholding tax from full-time jobs at the facility for a period of seven
106 years. Except as otherwise allowed under subsection 7 of this section,
107 the commencement of the withholding period may be delayed by no
108 more than twenty-four months after execution of the agreement at the
109 option of the qualified manufacturing company. Such qualified
110 manufacturing company shall be eligible for participation in the
111 Missouri quality jobs program in sections 620.1875 to 620.1890 for any
112 new jobs for which it does not retain withholding tax under this
113 section, provided all qualifications for such program are met.

114 5. A qualified supplier may, upon approval of a notice of intent
115 by the department, retain all withholding tax from new jobs for a
116 period of three years from the date of approval of the notice of intent
117 or for a period of five years if the supplier pays wages for the new jobs
118 equal to or greater than one hundred twenty percent of county average
119 wage. Notwithstanding any other provision of law to the contrary, a
120 qualified supplier that is awarded benefits under this section shall not
121 receive any tax credit or exemption or be entitled to retain withholding
122 under sections 100.700 to 100.850, sections 135.100 to 135.150, sections
123 135.200 to 135.286, sections 135.900 to 135.906, sections 135.950 to
124 135.970, or section 620.2010 for the same jobs.

125 6. Notwithstanding any other provision of law to the contrary,
126 the maximum amount of withholding tax that may be retained by any
127 one qualified manufacturing company under this section shall not
128 exceed ten million dollars per calendar year. The aggregate amount of
129 withholding tax that may be retained by all qualified manufacturing
130 companies under this section shall not exceed fifteen million dollars
131 per calendar year.

132 7. Notwithstanding any other provision of law to the contrary,

133 any qualified manufacturing company that is awarded benefits under
134 this section shall not simultaneously receive tax credits or exemptions
135 under sections 100.700 to 100.850, sections 135.100 to 135.150, sections
136 135.200 to 135.286, section 135.535, or sections 135.900 to 135.906 for the
137 jobs created or retained or capital improvement which qualified for
138 benefits under this section. If the qualified manufacturing company is
139 eligible to retain withholding tax in any other state program in
140 addition to this section, the commencement of the withholding period
141 may not be delayed during the time that the qualified manufacturing
142 company is participating in the other state program. The qualified
143 manufacturing company shall first receive the benefits from the other
144 state program. After such time that the qualified manufacturing
145 company is no longer eligible to participate in the other state program,
146 the qualified manufacturing company may receive any remaining
147 benefits under this section for the remainder of the initial withholding
148 period. These other state programs include, but are not limited to, the
149 Missouri Works Program in sections 620.2000 to 620.2020, the Missouri
150 works jobs training program under sections 620.800 to 620.809, the real
151 property tax increment allocation redevelopment act under sections
152 99.800 to 99.865, or the Missouri downtown and rural economic stimulus
153 act under sections 99.915 to 99.980. If any qualified manufacturing
154 company also participates in the Missouri works jobs training program
155 in sections 620.800 to 620.809, such qualified manufacturing company
156 shall not retain any withholding tax that has already been allocated for
157 use in the new jobs training program. Any qualified manufacturing
158 company or qualified supplier that is awarded benefits under this
159 program and knowingly hires individuals who are not allowed to work
160 legally in the United States shall immediately forfeit such benefits and
161 shall repay the state an amount equal to any withholding taxes already
162 retained. Subsection 5 of section 285.530 shall not apply to qualified
163 manufacturing companies or qualified suppliers which are awarded
164 benefits under this program.

165 8. The department may promulgate rules to implement the
166 provisions of this section. Any rule or portion of a rule, as that term is
167 defined in section 536.010, that is created under the authority delegated
168 in this section shall become effective only if it complies with and is
169 subject to all of the provisions of chapter 536 and, if applicable, section

170 **536.028. This section and chapter 536 are nonseverable, and if any of**
171 **the powers vested with the general assembly pursuant to chapter 536**
172 **to review, to delay the effective date, or to disapprove and annul a rule**
173 **are subsequently held unconstitutional, then the grant of rulemaking**
174 **authority and any rule proposed or adopted after August 28, 2017, shall**
175 **be invalid and void.**

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

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

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

205 **10. Prior to March first each year, the department shall provide**
206 **a report to the general assembly including the names of participating**

207 **qualified manufacturing companies or qualified suppliers, location of**
208 **such companies or suppliers, the annual amount of benefits provided,**
209 **the estimated net state fiscal impact including direct and indirect new**
210 **state taxes derived, and the number of new jobs created or jobs**
211 **retained.**

212 **11. Under section 23.253 of the Missouri sunset act:**

213 **(1) The provisions of the new program authorized under this**
214 **section shall automatically sunset on December thirty-first six years**
215 **after the effective date of this section unless reauthorized by an act of**
216 **the general assembly; and**

217 **(2) If such program is reauthorized, the program authorized**
218 **under this section shall automatically sunset twelve years after the**
219 **effective date of the reauthorization of this section; and**

220 **(3) This section shall terminate on September first of the**
221 **calendar year immediately following the calendar year in which the**
222 **program authorized under this section is sunset.**

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Bill

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