

FIRST REGULAR SESSION

# SENATE BILL NO. 530

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HEGEMAN.

Read 1st time March 1, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

2312S.01I

## AN ACT

To repeal sections 285.055 and 288.062, RSMo, and to enact in lieu thereof two new sections relating to the prohibition of local minimum wage laws.

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

Section A. Sections 285.055 and 288.062, RSMo, are repealed and two new  
2 sections enacted in lieu thereof, to be known as sections 285.055 and 288.062, to  
3 read as follows:

285.055. 1. As used in this section, the following terms shall mean:

- 2 (1) "Employee", an individual employed in this state by an employer;  
3 (2) "Employer", any individual, sole proprietorship, partnership, limited  
4 liability company, corporation, or any other entity that is legally doing business  
5 in this state; provided, however, that employer shall not include any public  
6 employer as defined in section 285.525;  
7 (3) "Employment benefits", anything of value that an employee may  
8 receive from an employer in addition to wages and salary. The term includes, but  
9 is not limited to, health, disability, retirement, profit-sharing, and death benefits;  
10 group accidental death and dismemberment benefits; paid or unpaid days off from  
11 work for holidays, sick leave, vacation, and personal necessity; and terms of  
12 employment, attendance, or leave policies;

13 (4) "Political subdivision", any county, city, town, or village.

14 2. No political subdivision shall establish, mandate, or otherwise require  
15 an employer to provide to an employee:

- 16 (1) A minimum or living wage rate; or  
17 (2) Employment benefits;

18 that exceed the requirements of federal or state laws, rules, or regulations. [The

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

19 provisions of this subsection shall not preempt any state law or local minimum  
20 wage ordinance requirements in effect on August 28, 2015.] **Sections 290.500**  
21 **to 290.530 shall preempt and nullify all ordinances, rules, and**  
22 **regulations adopted by a political subdivision currently in effect on the**  
23 **effective date of this act or later enacted relating to the establishment**  
24 **and enforcement of minimum or living wage or the provisions of**  
25 **employee benefits.**

288.062. 1. As used in this section, unless the context clearly requires  
2 otherwise:

3 (1) "Extended benefit period" means a period which begins with the third  
4 week after a week for which there is a state "on" indicator, and ends with either  
5 of the following weeks, whichever occurs later:

6 (a) The third week after the first week for which there is a state "off"  
7 indicator; or

8 (b) The thirteenth consecutive week of such period; provided, that no  
9 extended benefit period may begin by reason of a state "on" indicator before the  
10 fourteenth week following the end of a prior extended benefit period which was  
11 in effect with respect to this state;

12 (2) There is a "state 'on' indicator" for this state for a week if the director  
13 determines, in accordance with the regulations of the United States Secretary of  
14 Labor, that for the period consisting of such week and the immediately preceding  
15 twelve weeks, the rate of insured unemployment (not seasonally adjusted) under  
16 this law:

17 (a) a. Equaled or exceeded one hundred twenty percent of the average of  
18 such rates for the corresponding thirteen-week period ending in each of the  
19 preceding two calendar years; and

20 b. Equaled or exceeded four percent for weeks beginning prior to or on  
21 September 25, 1982, or five percent for weeks beginning after September 25,  
22 1982; except that, if the rate of insured unemployment as contemplated in this  
23 subdivision equals or exceeds five percent for weeks beginning prior to or on  
24 September 25, 1982, or six percent for weeks beginning after September 25, 1982,  
25 the determination of an "on" indicator shall be made under this subdivision as if  
26 this subdivision did not contain the provisions of subparagraph a. of paragraph  
27 (a) of this subdivision; or

28 (b) With respect to weeks of unemployment beginning on or after  
29 February 1, 2009, and ending on or before the week ending four weeks prior to

30 the last week of unemployment for which one hundred percent federal sharing is  
31 available under the provisions of Public Law 111-5, Section 2005(a) or August 28,  
32 2013, whichever should occur first:

33       a. The average rate of total unemployment in the state (seasonally  
34 adjusted), as determined by the United States Secretary of Labor, for the period  
35 consisting of the most recent three months for which data for all states are  
36 published before the close of such week equals or exceeds six and one-half  
37 percent; and

38       b. The average rate of total unemployment in the state (seasonally  
39 adjusted), as determined by the United States Secretary of Labor, for the  
40 three-month period referred to in subparagraph a. of this paragraph, equals or  
41 exceeds one hundred and ten percent of such average for either or both of the  
42 corresponding three-month periods ending in the two preceding calendar years;  
43 or

44       c. Effective with respect to compensation for weeks of unemployment  
45 beginning after the date of enactment of the Tax Relief, Unemployment Insurance  
46 Reauthorization, and Job Creation Act of 2010, Public Law 111-312, and ending  
47 on or before the last day allowable by the Tax Relief, Unemployment Insurance  
48 Reauthorization, and Job Creation Act of 2010, the average rate of total  
49 unemployment in the state (seasonally adjusted), as determined by the United  
50 States Secretary of Labor, for the three-month period referred to in subparagraph  
51 a. of this paragraph, equals or exceeds one hundred and ten percent of such  
52 average for any or all of the corresponding three-month periods ending in the  
53 three preceding calendar years;

54       (3) There is a "state 'off' indicator" for this state for a week if the director  
55 determines, in accordance with the regulations of the United States Secretary of  
56 Labor, that for the period consisting of such week and the immediately preceding  
57 twelve weeks, the rate of insured unemployment (not seasonally adjusted) under  
58 this law:

59       (a) Was less than one hundred twenty percent of the average of such rates  
60 for the corresponding thirteen-week period ending in each of the preceding two  
61 calendar years; or

62       (b) Was less than four percent (five percent for weeks beginning after  
63 September 25, 1982); except, there shall not be an "off" indicator for any week in  
64 which an "on" indicator as contemplated in subparagraph b. of paragraph (a) of  
65 subdivision (2) of this subsection exists;

66 (4) "Rate of insured unemployment", for the purposes of subdivisions (2)  
67 and (3) of this subsection, means the percentage derived by dividing:

68 (a) The average weekly number of individuals filing claims for regular  
69 compensation in this state for weeks of unemployment with respect to the most  
70 recent thirteen-consecutive-week period, as determined by the director on the  
71 basis of his or her reports to the United States Secretary of Labor, by

72 (b) The average monthly employment covered under this law for the first  
73 four of the most recent six completed calendar quarters ending before the end of  
74 such thirteen-week period;

75 (5) "Regular benefits" means benefits payable to an individual under this  
76 law or under any other state law (including benefits payable to federal civilian  
77 employees and ex-servicemen pursuant to 5 U.S.C. Chapter 85) other than  
78 extended benefits;

79 (6) "Extended benefits" means benefits (including benefits payable to  
80 federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. Chapter 85)  
81 payable to an individual under the provisions of this section for weeks of  
82 unemployment in his or her eligibility period;

83 (7) "Eligibility period" of an individual means the period consisting of the  
84 weeks in his or her benefit year which begin in an extended benefit period and,  
85 if his or her benefit year ends within such extended benefit period, any weeks  
86 thereafter which begin in such period;

87 (8) "Exhaustee" means an individual who, with respect to any week of  
88 unemployment in his or her eligibility period:

89 (a) Has received, prior to such week, all of the regular benefits that were  
90 available to him or her under this law or any other state law (including  
91 dependents' allowances and benefits payable to federal civilian employees and  
92 ex-servicemen under 5 U.S.C. Chapter 85) in his or her current benefit year that  
93 includes such week; provided, that, for the purposes of this paragraph, an  
94 individual shall be deemed to have received all of the regular benefits that were  
95 available to him or her although as a result of a pending appeal with respect to  
96 wages or employment, or both, that were not considered in the original monetary  
97 determination in his or her benefit year, he may subsequently be determined to  
98 be entitled to added regular benefits; or

99 (b) Has received, prior to such week, all the regular compensation  
100 available to him or her in his or her current benefit year that includes such week  
101 under the unemployment compensation law of the state in which he or she files

102 a claim for extended compensation or the unemployment compensation law of any  
103 other state after a cancellation of some or all of his or her wage credits or the  
104 partial or total reduction of his or her right to regular compensation; or

105 (c) His or her benefit year having expired prior to such week, he or she  
106 has insufficient wages or employment, or both, on the basis of which he or she  
107 could establish in any state a new benefit year that would include such week, or  
108 having established a new benefit year that includes such week, he or she is  
109 precluded from receiving regular compensation by reason of a state law provision  
110 which meets the requirement of section 3304(a)(7) of the Internal Revenue Code  
111 of 1954; and

112 (d) a. Has no right to unemployment benefits or allowances, as the case  
113 may be, under the Railroad Unemployment Insurance Act, the Trade Expansion  
114 Act of 1962, the Automotive Products Trade Act of 1965 and such other federal  
115 laws as are specified in regulations issued by the United States Secretary of  
116 Labor; and

117 b. Has not received and is not seeking unemployment benefits under the  
118 unemployment compensation law of Canada; but if he or she is seeking such  
119 benefits and the appropriate agency finally determines that he or she is not  
120 entitled to benefits under such law he or she is considered an exhaustee;

121 (9) "State law" means the unemployment insurance law of any state,  
122 approved by the United States Secretary of Labor under Section 3304 of the  
123 Internal Revenue Code of 1954.

124 2. Except when the result would be inconsistent with the other provisions  
125 of this section, as provided in the regulations of the director, the provisions of this  
126 law which apply to claims for, or the payment of, regular benefits shall apply to  
127 claims for, and the payment of, extended benefits.

128 3. An individual shall be eligible to receive extended benefits with respect  
129 to any week of unemployment in his or her eligibility period only if the deputy  
130 finds that with respect to such week:

131 (1) He or she is an exhaustee as defined in subdivision (8) of subsection  
132 1 of this section;

133 (2) He or she has satisfied the requirements of this law for the receipt of  
134 regular benefits that are applicable to individuals claiming extended benefits,  
135 including not being subject to a disqualification for the receipt of benefits; except  
136 that, in the case of a claim for benefits filed in another state, which is acting as  
137 an agent state under the Interstate Benefits Payment Plan as provided by

138 regulation, which claim is based on benefit credits accumulated in this state,  
139 eligibility for extended benefits shall be limited to the first two compensable  
140 weeks unless there is an extended benefit period in effect in both this state and  
141 the agent state in which the claim was filed;

142 (3) The other provisions of this law notwithstanding, as to new extended  
143 benefit claims filed after September 25, 1982, an individual shall be eligible to  
144 receive extended benefits with respect to any week of unemployment in his or her  
145 eligibility period only if the deputy finds that the total wages in the base period  
146 of his or her benefit year equal at least one and one-half times the wages paid  
147 during that quarter of his or her base period in which his or her wages were  
148 highest.

149 4. A claimant shall not be eligible for extended benefits following any  
150 disqualification imposed under subsection 1 or 2 of section 288.050, unless  
151 subsequent to the effective date of the disqualification, the claimant has been  
152 employed during at least four weeks and has earned wages equal to at least four  
153 times his or her weekly benefit amount.

154 5. For the purposes of determining eligibility for extended benefits, the  
155 term "suitable work" means any work which is within such individual's  
156 capabilities except that, if the individual furnishes satisfactory evidence that the  
157 prospects for obtaining work in his or her customary occupation within a  
158 reasonably short period are good, the determination of what constitutes suitable  
159 work shall be made in accordance with the provisions of subdivision (3) of  
160 subsection 1 of section 288.050. If a deputy finds that a person who is claiming  
161 extended benefits has refused to accept or to apply for suitable work, as defined  
162 in this subsection, or has failed to actively engage in seeking work subsequent to  
163 the effective date of his or her claim for extended benefits, that person shall be  
164 ineligible for extended benefits for the period beginning with the first day of the  
165 week in which such refusal or failure occurred. That ineligibility shall remain in  
166 effect until the person has been employed for at least four weeks after the week  
167 in which the refusal or failure occurred and has earned wages equal to at least  
168 four times his or her weekly benefit amount.

169 6. Extended benefits shall not be denied under subsection 5 of this section  
170 to any individual for any week by reason of a failure to accept an offer of or apply  
171 for suitable work if:

172 (1) The gross average weekly remuneration for such work does not exceed  
173 the individual's weekly benefit amount plus the amount of any supplemental

174 unemployment benefits, as defined in section 501(c)(17)(d) of the Internal  
175 Revenue Code, payable to such individual for such week; or

176 (2) The position was not offered to such individual in writing or was not  
177 listed with the state employment service; or

178 (3) If the remuneration for the work offered is less than the minimum  
179 wage provided by Section 6(a)(1) of the Fair Labor Standards Act of 1938, as  
180 amended, without regard to any exemption or any applicable state [or local]  
181 minimum wage[, whichever is the greater].

182 7. For the purposes of this section, an individual shall be considered as  
183 actively engaged in seeking work during any week with respect to which the  
184 individual has engaged in a systematic and sustained effort to obtain work as  
185 indicated by tangible evidence which the individual provides to the division.

186 8. Extended benefits shall not be denied for failure to apply for or to  
187 accept suitable work if such failure would not result in a denial of benefits under  
188 subdivision (3) of subsection 1 of section 288.050 to the extent that the provisions  
189 of subdivision (3) of subsection 1 of section 288.050 are not inconsistent with the  
190 provisions of subsections 5 and 6 of this section.

191 9. The division shall refer any claimant entitled to extended benefits  
192 under this law to any suitable work which meets the criteria established in  
193 subsections 5 and 6 of this section.

194 10. Notwithstanding other provisions of this chapter to the contrary, as  
195 to claims of extended benefits, subsections 4 to 9 of this section shall not apply  
196 to weeks of unemployment beginning after March 6, 1993, and before January 1,  
197 1995. Entitlement to extended benefits for weeks beginning after March 6, 1993,  
198 and before January 1, 1995, shall be determined in accordance with provisions of  
199 this chapter not excluded by this subsection.

200 11. "Weekly extended benefit amount." The weekly extended benefit  
201 amount payable to an individual for a week of total unemployment in his or her  
202 eligibility period shall be an amount equal to the weekly benefit amount payable  
203 to him or her during his or her applicable benefit year, reduced by a percentage  
204 equal to the percentage of the reduction in federal payments to states under  
205 Section 204 of the Federal State Extended Unemployment Compensation Act of  
206 1970, in accord with any order issued under any law of the United States. Such  
207 weekly benefit amount, if not a multiple of one dollar, shall be reduced to the  
208 nearest lower full dollar amount.

209 12. (1) "Total extended benefit amount." The total extended benefit

210 amount payable to any eligible individual with respect to his or her applicable  
211 benefit year shall be the lesser of the following amounts:

212 (a) Fifty percent of the total amount of regular benefits which were  
213 payable to him or her under this law in his or her applicable benefit year;

214 (b) Thirteen times his or her weekly benefit amount which was payable  
215 to him or her under this law for a week of total unemployment in the applicable  
216 benefit year.

217 (2) Notwithstanding subdivision (1) of this subsection, during any fiscal  
218 year in which federal payments to states under Section 204 of the Federal State  
219 Extended Unemployment Compensation Act of 1970 are reduced under any order  
220 issued under any law of the United States, the total extended benefit amount  
221 payable to an individual with respect to his or her applicable benefit year shall  
222 be reduced by an amount equal to the aggregate of the reductions under  
223 subsection 11 of this section in the weekly amounts paid to the individual.

224 (3) Notwithstanding the other provisions of this subsection, if the benefit  
225 year of any individual ends within an extended benefit period, the remaining  
226 balance of extended benefits that such individual would, but for this subdivision,  
227 be entitled to receive in that extended benefit period, with respect to weeks of  
228 unemployment beginning after the end of the benefit year, shall be reduced, but  
229 not below zero, by the product of the number of weeks for which the individual  
230 received trade readjustment allowances under the Trade Act of 1974, as amended,  
231 within that benefit year, multiplied by the individual's weekly benefit amount for  
232 extended benefits.

233 (4) (a) Effective with respect to weeks beginning in a high unemployment  
234 period, subdivision (1) of this subsection shall be applied by substituting:

235 a. Eighty percent for fifty percent in paragraph (a) of subdivision (1) of  
236 this subsection; and

237 b. Twenty times for thirteen times in paragraph (b) of subdivision (1) of  
238 this subsection.

239 (b) For purposes of paragraph (a) of this subdivision, the term "high  
240 unemployment period" means any period during which an extended benefit period  
241 would be in effect if subparagraph a. of paragraph (b) of subdivision (2) of  
242 subsection 1 of this section were applied by substituting eight percent for six and  
243 one-half percent.

244 13. (1) Whenever an extended benefit period is to become effective in this  
245 state as a result of a state "on" indicator, or an extended benefit period is to be



246 terminated in this state as a result of a state "off" indicator, the director shall  
247 make an appropriate public announcement.

248 (2) Computations required by the provisions of subdivision (4) of  
249 subsection 1 of this section shall be made by the director, in accordance with  
250 regulations prescribed by the United States Secretary of Labor.

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