

SECOND REGULAR SESSION

SENATE BILL NO. 550

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WASSON.

Pre-filed December 1, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4474S.011

AN ACT

To repeal section 620.2020, RSMo, and to enact in lieu thereof one new section relating to financial incentives for job creation.

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

Section A. Section 620.2020, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 620.2020, to read as follows:

620.2020. 1. The department shall respond to a written request, by or on
2 behalf of a qualified company, for a proposed benefit award under the provisions
3 of this program within five business days of receipt of such request. Such
4 response shall contain either a proposal of benefits for the qualified company, or
5 a written response refusing to provide such a proposal and stating the reasons for
6 such refusal. A qualified company that intends to seek benefits under the
7 program shall submit to the department a notice of intent. The department shall
8 respond within thirty days to a notice of intent with an approval or a rejection,
9 provided that the department may withhold approval or provide a contingent
10 approval until it is satisfied that proper documentation of eligibility has been
11 provided. Failure to respond on behalf of the department shall result in the
12 notice of intent being deemed approved. A qualified company receiving approval
13 for program benefits may receive additional benefits for subsequent new jobs at
14 the same facility after the full initial project period if the applicable minimum job
15 requirements are met. There shall be no limit on the number of project periods
16 a qualified company may participate in the program, and a qualified company
17 may elect to file a notice of intent to begin a new project period concurrent with
18 an existing project period if the applicable minimum job requirements are
19 achieved, 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 annual reporting, and the qualified company is in compliance with this program
21 and any other state programs in which the qualified company is currently or has
22 previously participated. However, the qualified company shall not receive any
23 further program benefits under the original approval for any new jobs created
24 after the date of the new notice of intent, and any jobs created before the new
25 notice of intent shall not be included as new jobs for purposes of the benefit
26 calculation for the new approval. When a qualified company has filed and
27 received approval of a notice of intent and subsequently files another notice of
28 intent, the department shall apply the definition of project facility under
29 subdivision (18) of section 620.2005 to the new notice of intent as well as all
30 previously approved notices of intent and shall determine the application of the
31 definitions of new job, new payroll, project facility base employment, and project
32 facility base payroll accordingly.

33 2. Notwithstanding any provision of law to the contrary, the benefits
34 available to the qualified company under any other state programs for which the
35 company is eligible and which utilize withholding tax from the new or retained
36 jobs of the company shall first be credited to the other state program before the
37 withholding retention level applicable under this program will begin to accrue.
38 If any qualified company also participates in a job training program utilizing
39 withholding tax, the company shall retain no withholding tax under this program,
40 but the department shall issue a refundable tax credit for the full amount of
41 benefit allowed under this program. The calendar year annual maximum amount
42 of tax credits which may be issued to a qualifying company that also participates
43 in a job training program shall be increased by an amount equivalent to the
44 withholding tax retained by that company under a jobs training program.

45 3. A qualified company receiving benefits under this program shall
46 provide an annual report of the number of jobs and such other information as
47 may be required by the department to document the basis for program benefits
48 available no later than ninety days prior to the end of the qualified company's tax
49 year immediately following the tax year for which the benefits provided under the
50 program are attributed. In such annual report, if the average wage is below the
51 applicable percentage of the county average wage, the qualified company has not
52 maintained the employee insurance as required, or if the number of jobs is below
53 the number required, the qualified company shall not receive tax credits or retain
54 the withholding tax for the balance of the project period. Failure to timely file
55 the annual report required under this section shall result in the forfeiture of tax

56 credits attributable to the year for which the reporting was required and a
57 recapture of withholding taxes retained by the qualified company during such
58 year.

59 4. The department may withhold the approval of any benefits under this
60 program until it is satisfied that proper documentation has been provided, and
61 shall reduce the benefits to reflect any reduction in full-time employees or
62 payroll. Upon approval by the department, the qualified company may begin the
63 retention of the withholding taxes when it reaches the required number of jobs
64 and the average wage meets or exceeds the applicable percentage of county
65 average wage. Tax credits, if any, may be issued upon satisfaction by the
66 department that the qualified company has exceeded the applicable percentage
67 of county average wage and the required number of jobs.

68 5. Any qualified company approved for benefits under this program shall
69 provide to the department, upon request, any and all information and records
70 reasonably required to monitor compliance with program requirements. This
71 program shall be considered a business recruitment tax credit under subdivision
72 (4) of subsection 2 of section 135.800, and any qualified company approved for
73 benefits under this program shall be subject to the provisions of sections 135.800
74 to 135.830.

75 6. Any taxpayer who is awarded benefits under this program who
76 knowingly hires individuals who are not allowed to work legally in the United
77 States shall immediately forfeit such benefits and shall repay the state an
78 amount equal to any state tax credits already redeemed and any withholding
79 taxes already retained.

80 7. The maximum amount of tax credits that may be authorized under this
81 program for any fiscal year shall be limited as follows, less the amount of any tax
82 credits previously obligated for that fiscal year under any of the tax credit
83 programs referenced in subsection 13 of this section:

84 (1) For the fiscal year beginning on July 1, 2013, but ending on or before
85 June 30, 2014, no more than one hundred six million dollars in tax credits may
86 be authorized;

87 (2) For the fiscal year beginning on July 1, 2014, but ending on or before
88 June 30, 2015, no more than one hundred eleven million dollars in tax credits
89 may be authorized; and

90 (3) For any fiscal year beginning on or after July 1, 2015, no more than
91 one hundred sixteen million dollars in tax credits may be authorized for each

92 fiscal year.

93 8. For tax credits for the creation of new jobs under section 620.2010, the
94 department shall allocate the annual tax credits based on the date of the
95 approval, reserving such tax credits based on the department's best estimate of
96 new jobs and new payroll of the project, and any other applicable factors in
97 determining the amount of benefits available to the qualified company under this
98 program. However, the annual issuance of tax credits shall be subject to annual
99 verification of actual payroll by the department. Any authorization of tax credits
100 shall expire if, within two years from the date of commencement of operations, or
101 approval if applicable, the qualified company has failed to meet the applicable
102 minimum job requirements. The qualified company may retain authorized
103 amounts from the withholding tax under the project once the applicable minimum
104 job requirements have been met for the duration of the project period. No
105 benefits shall be provided under this program until the qualified company meets
106 the applicable minimum new job requirements. In the event the qualified
107 company does not meet the applicable minimum new job requirements, the
108 qualified company may submit a new notice of intent or the department may
109 provide a new approval for a new project of the qualified company at the project
110 facility or other facilities.

111 9. Tax credits provided under this program may be claimed against taxes
112 otherwise imposed by chapters 143 and 148, and may not be carried forward, but
113 shall be claimed within one year of the close of the taxable year for which they
114 were issued. Tax credits provided under this program may be transferred, sold,
115 or assigned by filing a notarized endorsement thereof with the department that
116 names the transferee, the amount of tax credit transferred, and the value received
117 for the credit, as well as any other information reasonably requested by the
118 department. For a qualified company with flow-through tax treatment to its
119 members, partners, or shareholders, the tax credit shall be allowed to members,
120 partners, or shareholders in proportion to their share of ownership on the last
121 day of the qualified company's tax period.

122 10. Prior to the issuance of tax credits or the qualified company beginning
123 to retain withholding taxes, the department shall verify through the department
124 of revenue and any other applicable state department that the tax credit
125 applicant does not owe any delinquent income, sales, or use tax or interest or
126 penalties on such taxes, or any delinquent fees or assessments levied by any state
127 department and through the department of insurance, financial institutions and

128 professional registration that the applicant does not owe any delinquent
129 insurance taxes or other fees. Such delinquency shall not affect the approval,
130 except that any tax credits issued shall be first applied to the delinquency and
131 any amount issued shall be reduced by the applicant's tax delinquency. If the
132 department of revenue, the department of insurance, financial institutions and
133 professional registration, or any other state department concludes that a taxpayer
134 is delinquent after June fifteenth but before July first of any year and the
135 application of tax credits to such delinquency causes a tax deficiency on behalf of
136 the taxpayer to arise, then the taxpayer shall be granted thirty days to satisfy the
137 deficiency in which interest, penalties, and additions to tax shall be tolled. After
138 applying all available credits toward a tax delinquency, the administering agency
139 shall notify the appropriate department and that department shall update the
140 amount of outstanding delinquent tax owed by the applicant. If any credits
141 remain after satisfying all insurance, income, sales, and use tax delinquencies,
142 the remaining credits shall be issued to the applicant, subject to the restrictions
143 of other provisions of law.

144 11. The director of revenue shall issue a refund to the qualified company
145 to the extent that the amount of tax credits allowed under this program exceeds
146 the amount of the qualified company's tax liability under chapter 143 or 148.

147 12. An employee of a qualified company shall receive full credit for the
148 amount of tax withheld as provided in section 143.211.

149 13. Notwithstanding any provision of law to the contrary, beginning
150 August 28, 2013, no new benefits shall be authorized for any project that had not
151 received from the department a proposal or approval for such benefits prior to
152 August 28, 2013, under the development tax credit program created under
153 sections 32.100 to 32.125, the rebuilding communities tax credit program created
154 under section 135.535, the enhanced enterprise zone tax credit program created
155 under sections 135.950 to 135.973, and the Missouri quality jobs program created
156 under sections 620.1875 to 620.1890. The provisions of this subsection shall not
157 be construed to limit or impair the ability of any administering agency to
158 authorize or issue benefits for any project that had received an approval or a
159 proposal from the department under any of the programs referenced in this
160 subsection prior to August 28, 2013, or the ability of any taxpayer to redeem any
161 such tax credits or to retain any withholding tax under an approval issued prior
162 to that date. The provisions of this subsection shall not be construed to limit or
163 in any way impair the ability of any governing authority to provide any local

164 abatement or designate a new zone under the enhanced enterprise zone program
165 created by sections 135.950 to 135.963. Notwithstanding any provision of law to
166 the contrary, no qualified company that is awarded benefits under this program
167 shall:

168 (1) Simultaneously receive benefits under the programs referenced in this
169 subsection at the same capital investment; or

170 (2) Receive benefits under the provisions of section 620.1910 for the same
171 jobs.

172 14. If any provision of sections 620.2000 to 620.2020 or application thereof
173 to any person or circumstance is held invalid, the invalidity shall not affect other
174 provisions or application of these sections which can be given effect without the
175 invalid provisions or application, and to this end, the provisions of sections
176 620.2000 to 620.2020 are hereby declared severable.

177 15. By no later than January 1, 2014, and the first day of each calendar
178 quarter thereafter, the department shall present a quarterly report to the general
179 assembly detailing the benefits authorized under this program during the
180 immediately preceding calendar quarter to the extent such information may be
181 disclosed under state and federal law. The report shall include, at a minimum:

182 (1) A list of all approved and disapproved applicants for each tax credit;

183 (2) A list of the aggregate amount of new or retained jobs that are directly
184 attributable to the tax credits authorized;

185 (3) A statement of the aggregate amount of new capital investment
186 directly attributable to the tax credits authorized;

187 (4) Documentation of the estimated net state fiscal benefit for each
188 authorized project and, to the extent available, the actual benefit realized upon
189 completion of such project or activity; and

190 (5) The department's response time for each request for a proposed benefit
191 award under this program.

192 16. The department may adopt such rules, statements of policy,
193 procedures, forms, and guidelines as may be necessary to carry out the provisions
194 of sections 620.2000 to 620.2020. Any rule or portion of a rule, as that term is
195 defined in section 536.010, that is created under the authority delegated in this
196 section shall become effective only if it complies with and is subject to all of the
197 provisions of chapter 536 and, if applicable, section 536.028. This section and
198 chapter 536 are nonseverable and if any of the powers vested with the general
199 assembly pursuant to chapter 536 to review, to delay the effective date, or to

200 disapprove and annul a rule are subsequently held unconstitutional, then the
201 grant of rulemaking authority and any rule proposed or adopted after August 28,
202 2013, shall be invalid and void.

203 17. Under section 23.253 of the Missouri sunset act:

204 (1) The provisions of the [new] program authorized under sections
205 620.2000 to 620.2020 shall [automatically sunset six years after August 28, 2013,
206 unless reauthorized by an act of the general assembly] **be reauthorized as of**
207 **the effective date of this act and shall expire on August 28, 2030;** and

208 (2) If such program is reauthorized, the program authorized under this
209 section shall automatically sunset twelve years after the effective date of this
210 reauthorization of sections 620.2000 to 620.2020; and

211 (3) Sections 620.2000 to 620.2020 shall terminate on September first of
212 the calendar year immediately following the calendar year in which the program
213 authorized under sections 620.2000 to 620.2020 is sunset.

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