

FIRST REGULAR SESSION

HOUSE BILL NO. 218

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE REDMON.

0163H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 620, RSMo, by adding thereto nine new sections relating to tax incentives for investments in rural business.

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

Section A. Chapter 620, RSMo, is amended by adding thereto nine new sections, to be known as sections 620.1950, 620.1951, 620.1952, 620.1953, 620.1954, 620.1955, 620.1956, 620.1957, and 620.1958 to read as follows:

620.1950. Sections 620.1950 to 620.1958 shall be known and may be cited as the "Show Me Rural Jobs Act".

620.1951. As used in sections 620.1950 to 620.1958, the following terms mean:

(1) "Affiliate", a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another person or entity. For the purpose of sections 620.1950 to 620.1958, a person is "controlled by" another person if the controlling person holds, directly or indirectly, the majority voting or ownership interest in the controlled person or has control over the day-to-day operations of the controlled person by contract or by law;

(2) "Approved investment company", an entity approved by the department under section 620.1953;

(3) "Closing date", the date on which an approved investment company collects all of the amounts specified under subsection 6 of section 620.1953;

(4) "Credit-eligible capital contribution", an investment of cash by a person or entity subject to taxes under section 375.916 or chapter 143, 148, or 153, excluding withholding tax imposed under sections 143.191 to 143.265, in an approved investment

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

15 company that equals the amount specified on a tax credit certificate issued under
16 subsection 5 of section 620.1953. Such investment shall purchase an equity interest in the
17 approved investment company or purchase, at par value or premium, a debt instrument
18 that has a maturity date at least five years from the date of investment;

19 (5) "Department", the Missouri department of agriculture;

20 (6) "Funding", any capital or equity investment in a rural business concern or any
21 loan to a rural business concern with a final maturity at least two years after the date of
22 issuance;

23 (7) "Growth capital", cash investments in an approved investment company in the
24 amount as stated on the notice issued under subsection 5 of section 620.1953 and comprised
25 of at least sixty percent of credit-eligible capital contributions;

26 (8) "Operating company", a company doing business in Missouri excluding any
27 publicly traded business;

28 (9) "Principal business operations", the location where at least sixty percent of the
29 business's employees work or where employees that are paid at least sixty percent of the
30 business's payroll work. A business that has agreed to relocate, using the proceeds of its
31 funding so that it meets the requirements of this definition, shall be deemed to have its
32 principal business operations in the new location provided that it satisfies this definition
33 within one hundred eighty days after funding;

34 (10) "Rural area", a location:

35 (a) That is not within a city or town with a population greater than eighty thousand
36 according to the most recent decennial United States census or the urbanized area
37 contiguous and adjacent to such a city or town; or

38 (b) Determined to be "rural in character" by the director of the department;

39 (11) "Rural business concern", an operating company that:

40 (a) Has its principal business operations in one or more rural areas in Missouri;

41 (b) Has fewer than two hundred fifty employees or had a federal adjusted gross
42 income less than fifteen million dollars in the preceding tax year; and

43 (c) Engages in industries related to manufacturing, plant sciences, technology, or
44 agricultural technology or, if not engaged in such industries, the department makes a
45 determination that the targeted funding will be highly beneficial to the economic growth
46 of the state. In making such a determination, the department may consider input, if any,
47 from the Missouri agricultural and small business development authority.

620.1952. 1. There is hereby created in the state treasury the "Show Me Rural Jobs
2 Fund", which shall consist of moneys collected under sections 620.1950 to 620.1958. The
3 state treasurer shall be custodian of the fund. In accordance with sections 30.170 and

4 **30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund**
5 **and, upon appropriation, moneys in the fund shall be used solely for the administration of**
6 **sections 620.1950 to 620.1958.**

7 **2. Notwithstanding the provisions of section 33.080 to the contrary, any moneys**
8 **remaining in the fund at the end of the biennium shall not revert to the credit of the**
9 **general revenue fund.**

10 **3. The state treasurer shall invest moneys in the fund in the same manner as other**
11 **funds are invested. Any interest and moneys earned on such investments shall be credited**
12 **to the fund.**

620.1953. 1. Beginning October 1, 2017, the department shall accept applications
2 **for approved investment companies. The application shall include:**

3 **(1) The amount of growth capital sought by the applicant;**

4 **(2) Either:**

5 **(a) A copy of the applicant's or its affiliate's license as a rural business investment**
6 **company under 7 U.S.C. Section 2009cc or as a small business investment company under**
7 **15 U.S.C. Section 681 and evidence demonstrating that the applicant or its affiliates have**
8 **invested at least one hundred million dollars in operating companies and at least fifty**
9 **million dollars in operating companies located in rural areas; or**

10 **(b) Evidence demonstrating that the applicant or its affiliates have invested in at**
11 **least one hundred fifty million dollars in limited partnerships or limited liability companies**
12 **through one or more federal tax credit program administered by an agency of this state**
13 **and evidence that the applicant has domiciled in this state for the five years preceding its**
14 **application;**

15 **(3) An estimate of the number of jobs that will be created or retained in Missouri**
16 **as a result of the applicant's funding;**

17 **(4) A business plan for the applicant's proposed funding that includes a revenue**
18 **impact assessment prepared by a nationally recognized third-party independent economic**
19 **forecasting firm and that projects state and local tax revenue to be generated by the**
20 **applicant's funding under its ten-year business plan;**

21 **(5) An affidavit from each investor stating a commitment to make a credit-eligible**
22 **capital contribution in support of the business plan and the amount of such credit-eligible**
23 **capital contribution; and**

24 **(6) A nonrefundable application fee of five thousand dollars.**

25

26 **The application may also include, but is not required to include, a letter of**
27 **recommendation from the Missouri agricultural and small business development authority.**

28 **2. The department shall make an application determination within thirty days of**
29 **receipt in the order in which applications are received. The department shall deem**
30 **applications received on the same day as received simultaneously. Except as provided**
31 **under subsection 4 of section 620.1955, the department shall not approve more than one**
32 **hundred twenty-five million dollars in growth capital and not more than one hundred**
33 **million dollars in credit-eligible capital contributions under this section. If requests for**
34 **growth capital exceed this limitation, the department shall proportionally reduce the**
35 **growth capital and the credit-eligible capital contributions for each approved application**
36 **as necessary to meet the limitation. No application by an applicant and its affiliates shall**
37 **be approved for more than one-third the limitation provided in this subsection.**

38 **3. The department shall deny an application submitted under this section if:**

39 **(1) The application fee is not paid in full;**

40 **(2) The applicant does not satisfy all the requirements under subdivision 2 of**
41 **subsection 1 of this section;**

42 **(3) The revenue impact assessment does not demonstrate that the applicant's**
43 **business plan will result in a positive economic impact in Missouri over a ten-year period**
44 **that exceeds the cumulative amount of tax credits the applicant seeks;**

45 **(4) Commitments for credit-eligible capital contributions do not equal at least sixty**
46 **percent of the total growth capital sought under the applicant's business plan;**

47 **(5) The department has already approved the maximum amount of growth capital**
48 **and credit-eligible capital contributions allowed under subsection 2 of this section; or**

49 **(6) The department determines that the applicant does not satisfy any other**
50 **reasonable requirement. Such requirements shall apply to all applicants equally, and the**
51 **department shall not apply this subdivision arbitrarily.**

52 **4. If the department denies an application, the applicant may provide additional**
53 **information within fifteen days of the notice of denial to the department to complete,**
54 **clarify, or cure defects in the application identified by the department, and the department**
55 **shall reconsider the application and make a determination within fifteen days before**
56 **approving any pending applications submitted after the denied applicant's original**
57 **submission date.**

58 **5. The department shall not deny an application or reduce the requested growth**
59 **capital for reasons other than those described under subsections 2 and 3 of this section.**
60 **If the department approves an application, it shall provide written notice to the applicant**
61 **stating:**

62 **(1) The applicant is an approved investment company;**

63 **(2) The approved amount of the growth capital; and**

64 (3) A tax credit certificate for each investor whose affidavit was included in the
65 application.

66

67 The department shall provide a copy of such notice to the department of economic
68 development.

69 6. After receiving notice of approval, an approved investment company shall:

70 (1) Within sixty days:

71 (a) Collect the credit-eligible capital contributions from each investor who was
72 issued a tax credit certificate; and

73 (b) Collect one or more investments of cash that, if added to credit-eligible capital
74 contributions, equals the approved investment company's growth capital.

75

76 At least ten percent of the approved investment company's growth capital shall be
77 composed of equity investments contributed by affiliates of the approved investment
78 company, including employees, officers, and directors of such affiliates; and

79 (2) Within sixty-five days, deliver to the department and the department of
80 economic development documentation sufficient to prove that the amounts described under
81 subdivision (1) of this subsection have been collected.

82 7. If the approved investment company fails to fully comply with the provisions of
83 subsection 6 of this section, the approved investment company's approval shall lapse and
84 the corresponding growth capital and credit-eligible capital contributions under this
85 division shall not count toward the limits on total growth capital and credit-eligible capital
86 contributions under subsection 2 of this section. The department shall first award lapsed
87 growth capital pro rata to each approved investment company that was awarded less than
88 its requested growth capital, which the approved investment company may allocate to its
89 investors in its discretion. Any remaining growth capital may be awarded by the
90 department to new approved companies.

91 8. Application fees submitted to the department shall be credited to the show me
92 rural jobs fund. No other fee shall be charged for the administration of tax credits by the
93 department or the department of economic development.

620.1954. 1. There is hereby allowed a nonrefundable tax credit for taxpayers who
2 make a credit-eligible capital contribution to an approved investment company and who
3 receive a tax credit certificate issued under subsection 5 of section 620.1953. The credit
4 may be claimed against taxes imposed under section 375.916 or chapter 143, 148, or 153,
5 excluding withholding tax imposed under sections 143.191 to 143.265. The credit shall not
6 be sold, transferred, or allocated to any other entity except an affiliate.

7 **2. On the closing date, the taxpayer shall earn a vested credit equal to the amount**
8 **of the taxpayer's credit-eligible capital contribution to the approved investment company**
9 **as specified on the tax credit certificate. The taxpayer may claim up to twenty percent of**
10 **the credit authorized under this section for each of the five tax years beginning on or after**
11 **July 1, 2019, exclusive of amounts carried forward under subsection 3 of this section.**

12 **3. If the amount of the credit for a tax year exceeds the taxpayer's tax liability for**
13 **that year, the excess shall be carried forward and claimed during the next five tax years.**
14 **A taxpayer claiming a credit under this section shall submit a copy of the tax credit**
15 **certificate with the taxpayer's return for each tax year the credit is claimed.**

16 **4. The maximum amount of credits claimed in any one fiscal year by all taxpayers**
17 **shall not exceed fifteen million dollars, exclusive of amounts carried forward under**
18 **subsection 3 of this section.**

620.1955. 1. The department of economic development shall revoke a tax credit
2 **certificate issued under subsection 5 of section 620.1953 if any of the following occur with**
3 **respect to an approved investment company before it exits the program in accordance with**
4 **subsection 5 of this section:**

5 **(1) The approved investment company does not invest one hundred percent of its**
6 **growth capital in funding within two years of the closing date;**

7 **(2) The approved investment company, after investing one hundred percent of its**
8 **growth capital in funding, fails to maintain that investment for the five years after the**
9 **closing date. An investment that is sold or repaid, in whole or in part, shall be deemed**
10 **maintained if the approved investment company reinvests an amount equal to the returned**
11 **or recovered portion, excluding any profits realized, in other funding within twelve months**
12 **of the receipt of the returned or recovered portion. Amounts received periodically by an**
13 **approved investment company shall be deemed continually invested in funding if the**
14 **amounts are reinvested in funding for one or more rural business concerns by the end of**
15 **the following calendar year;**

16 **(3) The approved investment company, before exiting the program, makes a**
17 **distribution or payment that results in the approved investment fund having less than one**
18 **hundred percent of its growth capital invested in fundings or available for investment in**
19 **fundings and held as cash or other marketable securities;**

20 **(4) The approved investment company invests more than twenty percent of its**
21 **growth capital in the same rural business concern, including amounts invested in affiliates**
22 **of the rural business concern; or**

23 **(5) The approved investment company invests funding in a rural business concern**
24 **that, directly or indirectly through an affiliate, owns, has the right to acquire an ownership**

25 interest, makes a loan to, or makes an investment in the approved investment company, an
26 affiliate of the approved investment company, or an investor in the approved investment
27 company. This subsection shall not apply to investments in publicly traded securities by
28 a rural business concern or an owner or affiliate of such rural business concern. For
29 purposes of this subdivision, an approved investment company shall not be considered an
30 affiliate of a rural business concern solely as a result of its funding.

31 2. Before revoking one or more tax credit certificates under this division, the
32 department of economic development shall notify the approved investment company of the
33 reasons for the pending revocation. The approved investment company shall have ninety
34 days from the date of such notice to correct the violations to the satisfaction of the
35 department of economic development and avoid revocation of the tax credit certificate.
36 The approved investment company shall be charged five thousand dollars per day for each
37 day taken to correct the violations, and such amounts shall be deposited in the show me
38 rural jobs fund.

39 3. If the department of economic development revokes a tax credit certificate, the
40 department of revenue shall make an assessment for the amount of the credit claimed by
41 the certificate holder before the certificate was revoked.

42 4. If tax credit certificates are revoked under this section, the associated growth
43 capital and credit-eligible capital contributions do not count toward the limit on total
44 growth capital and credit-eligible capital contributions described under subsection 2 of
45 section 620.1953. The department of economic development shall first award reverted
46 growth capital pro rata to each approved investment company that was awarded less than
47 its requested growth capital. Any remaining growth capital may be awarded by the
48 department of economic development to new approved investment companies.

49 5. After five years of the closing date, an approved investment company shall be
50 allowed to leave the program if none of the approved investment company's tax credit
51 certificates were revoked or are pending revocation. The department of economic
52 development shall release an approved investment company from the program and the
53 regulations of this act within thirty days of receiving a request to exit.

54 6. If the actual revenue impact from its funding through the date of the proposed
55 distribution is:

56 (1) Less than sixty percent of the amount projected in the approved investment
57 fund's business plan filed as part of its application for certification, then the state shall
58 receive thirty percent of any distribution or payment to an equity holder in an approved
59 investment fund in excess of the sum of the amount of equity capital invested in the
60 approved investment fund by such equity holder and an amount equal to any projected

61 increase in the equity holder's federal or state tax liability, including penalties and interest,
62 related to the equity holder's ownership, management, or operation of the approved
63 investment fund;

64 (2) Greater than sixty percent but less than one hundred percent of the amount
65 projected in the approved investment fund's business plan filed as part of its application
66 for certification, then the state shall receive fifteen percent of any distribution or payment
67 to an equity holder in an approved investment fund in excess of the sum of the amount of
68 equity capital invested in the approved investment fund by such equity holder and an
69 amount equal to any projected increase in the equity holder's federal or state tax liability,
70 including penalties and interest, related to the equity holder's ownership, management, or
71 operation of the approved investment fund; or

72 (3) Equal to or greater than the amount projected in the approved investment
73 fund's business plan filed as part of its application for certification, then the state shall
74 receive zero percent of any distribution or payment to an equity holder in an approved
75 investment fund in excess of the sum of the amount of equity capital invested in the
76 approved investment fund by such equity holder and an amount equal to any projected
77 increase in the equity holder's federal or state tax liability, including penalties and interest,
78 related to the equity holder's ownership, management, or operation of the approved
79 investment fund.

80 7. The department of economic development shall not revoke a tax credit certificate
81 due to any actions of an approved investment company that occur after the date the
82 department of economic development acknowledges an approved investment company's
83 exit from the program.

620.1956. 1. Each approved investment company shall submit a report to the
2 department of economic development and the department on or before the fifth business
3 day after the second anniversary of the closing date containing:

4 (1) The approved investment company's bank statements evidencing each funding;

5 (2) The name and location of each business receiving funding, including evidence
6 that the business qualified as a rural business concern at the time the investment was
7 made; and

8 (3) The number of employment positions created or retained as a result of the
9 approved investment company's fundings as of December thirty-first of the preceding year;

10 2. On or before April thirtieth of each year following the year in which the report
11 required under subsection 1 of this section is due, the approved investment company shall
12 submit an annual report to the department of economic development and the department
13 containing:

14 (1) The number of employment positions created or retained as a result of the
15 approved investment company's fundings as of December thirty-first of the preceding
16 calendar year;

17 (2) The average annual salary of such positions; and

18 (3) Any other information required by the department.

19 3. The department of revenue and the department may promulgate rules to
20 implement the provisions of the show me rural jobs act. Any rule or portion of a rule, as
21 that term is defined in section 536.010, that is created under the authority delegated in this
22 section shall become effective only if it complies with and is subject to all of the provisions
23 of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
24 nonseverable, and if any of the powers vested with the general assembly pursuant to
25 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
26 subsequently held unconstitutional, then the grant of rulemaking authority and any rule
27 proposed or adopted after August 28, 2017, shall be invalid and void.

28 4. Under section 23.253 of the Missouri sunset act:

29 (1) The provisions of the new program authorized under sections 620.1950 to
30 620.1958 shall automatically sunset on December thirty-first six years after the effective
31 date, unless reauthorized by an act of the general assembly;

32 (2) If such program is reauthorized, the program authorized under this section
33 shall automatically sunset on December thirty-first six years after the effective date of the
34 reauthorization of this section; and

35 (3) This section shall terminate on September first of the calendar year immediately
36 following the calendar year in which the program authorized under this section is sunset.
37 However, nothing in this subsection shall preclude a taxpayer who makes a qualified equity
38 investment prior to sunset of this section under the provisions of section 23.253 from
39 claiming tax credits relating to such qualified equity investment for each credit allowance
40 date.

 620.1957. An approved investment fund, before making a funding, may request a
2 written opinion from the department stating whether the business in which it proposes to
3 invest is a rural business concern. The department shall respond to a request with its
4 determination within fifteen business days of receiving such request. If the department
5 fails to respond within fifteen business days of receiving the request, the business for which
6 determination is sought shall be considered a rural business concern.

 620.1958. Prior to funding a rural business concern with growth capital, an
2 approved investment company shall provide the department with at least two of the
3 following three documents for the department's review:

4 **(1) A letter from a commercial bank that conducts business in the state that attests**
5 **that the rural business concern sought and was denied financing from such commercial**
6 **bank similar to the funding currently sought from the approved investment company;**

7 **(2) An affidavit from the president or chief officer of the rural business concern**
8 **stating that the company actively sought and was unable to secure sufficient financing**
9 **similar to the funding currently sought from the approved investment company from other**
10 **sources; or**

11 **(3) A letter from the state representative or state senator of the district in which the**
12 **principal operations of the rural business concern is located that states such elected**
13 **official's support for the funding.**

14

15 **The department shall review such documents and shall provide notice of approval or**
16 **denial to the approved investment company within fifteen days. Any funding not approved**
17 **or denied within such fifteen-day period shall be deemed approved.**

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