

FIRST REGULAR SESSION
[PERFECTED]
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NOS. 365, 804 & 805
94TH GENERAL ASSEMBLY

Reported from the Special Committee on Small Business February 26, 2007 with recommendation that House Committee Substitute for House Bill Nos. 365, 804 & 805 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

Reported from the Committee on Rules March 6, 2007 with recommendation that House Committee Substitute for House Bill Nos. 365, 804 & 805 Do Pass.

Taken up for Perfection April 2, 2007. House Committee Substitute for House Bill Nos. 365, 804 & 805 ordered Perfected and printed, as amended.

D. ADAM CRUMBLISS, Chief Clerk

1225L.04P

AN ACT

To repeal sections 135.400, 135.403, and 137.100, RSMo, and to enact in lieu thereof eight new sections relating to small businesses expansion and retention.

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

Section A. Sections 135.400, 135.403, and 137.100, RSMo, are repealed and eight new
2 sections enacted in lieu thereof, to be known as sections 135.400, 135.403, 135.1200, 137.100,
3 144.055, 348.273, 348.274, and 620.1892, to read as follows:

135.400. As used in sections 135.400 to 135.430, the following terms mean:

2 (1) "Certificate", a tax credit certificate issued by the department of economic
3 development in accordance with sections 135.400 to 135.430;

4 (2) ["Community bank", either a bank community development corporation or
5 development bank, which are financial organizations which receive investments from
6 commercial financial institutions regulated by the federal reserve, the office of the comptroller
7 of the currency, the office of thrift supervision, or the Missouri division of finance. Community
8 banks, in addition to their other privileges, shall be allowed to make loans to businesses or equity

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.

9 investments in businesses or in real estate provided that such transactions have associated public
10 benefits;

11 (3) "Community development corporation", a not-for-profit corporation whose board of
12 directors is composed of businesses, civic and community leaders, and whose primary purpose
13 is to encourage and promote the industrial, economic, entrepreneurial, commercial, and civic
14 development or redevelopment of a community or area, including the provision of housing and
15 community development projects that benefit low-income individuals and communities;

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

17 [(5)] (3) "Director", the director of the department of economic development, or a person
18 acting under the supervision of the director;

19 [(6)] (4) "Investment", a transaction in which a Missouri small business [or a community
20 bank] receives a monetary benefit from an investor pursuant to the provisions of sections
21 135.403 to 135.414;

22 [(7)] (5) "Investor", an individual, partnership, financial institution, trust or corporation
23 meeting the eligibility requirements of sections 135.403 to 135.414. In the case of partnerships
24 and nontaxable trusts, the individual partners or beneficiaries shall be treated as the investors;

25 (6) **"Missouri innovation center", an innovation center created under section**
26 **348.271, RSMo;**

27 [(8)] (7) "Missouri small business", an independently owned and operated business as
28 defined in Title 15 U.S.C. Section 632(a) and as described by Title 13 CFR Part 121, which is
29 headquartered in Missouri and which employs at least eighty percent of its employees in
30 Missouri, except that no such small business shall employ more than one hundred employees.
31 Such businesses must be involved in interstate or intrastate commerce for the purpose of
32 manufacturing, processing or assembling products, conducting research and development, or
33 providing services in interstate commerce, but excluding retail, real estate, insurance or
34 professional services[. For the purpose of qualifying for the tax credit pursuant to sections
35 135.400 to 135.430, "Missouri small business" shall include cooperative marketing associations
36 organized pursuant to chapter 274, RSMo, which are engaged in the business of producing and
37 marketing fuels derived from agriculture commodities, without regard for whether a cooperative
38 marketing association has more than one hundred employees. Cooperative marketing
39 associations organized pursuant to chapter 274, RSMo, shall not be required to comply with the
40 requirements of section 135.414];

41 [(9)] (8) "Primary employment", work which pays at least the [minimum] **county**
42 **average** wage and which is not seasonal or part-time;

43 [(10)] **(9)** "Principal owners", one or more persons who own an aggregate of fifty percent
44 or more of the Missouri small business and who are involved in the operation of the business as
45 a full-time professional activity;

46 [(11)] **(10)** "Project", any commercial or industrial business or other economic
47 development activity undertaken in a target area, designed to reduce conditions of blight,
48 unemployment or widespread reliance on public assistance which creates permanent primary
49 employment opportunities;

50 **(11) "Rural area", a county with a population of less than seventy-five thousand**
51 **inhabitants or that does not contain an individual city with a population greater than fifty**
52 **thousand inhabitants according to the most recent federal consensus;**

53 **(12) "Small business development center", a center as referenced in section**
54 **620.1003, RSMo;**

55 [(12)] **(13)** "State tax liability", any liability incurred by a taxpayer pursuant to the
56 provisions of chapter 143, RSMo, chapter 147, RSMo, chapter 148, RSMo, section 375.916,
57 RSMo, and chapter 153, RSMo, exclusive of the provisions relating to the withholding of tax
58 as provided for in sections 143.191 to 143.265, RSMo, and related provisions;

59 [(13)] "Target area", a group of blocks or a self-defined neighborhood where the rate of
60 poverty in the area is greater than twice the national poverty rate and as defined by the
61 department of social services in conjunction with the department of economic development.
62 Areas of the state satisfying the criteria of this subdivision may be designated as a "target area"
63 following appropriate findings made and certified by the departments of economic development
64 and social services. In making such findings, the departments of economic development and
65 social services may use any commonly recognized records and statistical indices published or
66 made available by any agency or instrumentality of the federal or state government. No area of
67 the state shall be a target area until so certified by the department of social services and the
68 revitalization plan submitted pursuant to section 208.335, RSMo, has received approval.] **(14)**

69 **"Small business tax credit review committee", a committee consisting of two**
70 **representatives from the department of economic development, two representatives from**
71 **the Missouri small business development centers, and one representative from a Missouri**
72 **innovation center. This committee shall review all applications for the Missouri small**
73 **business investment tax credit and make recommendations to the department of economic**
74 **development on the authorization of such tax credits.**

135.403. 1. Any investor who makes a qualified investment **up to one hundred**
2 **thousand dollars** in a Missouri small business [shall be entitled to receive] **may be issued** a tax
3 credit equal to [forty] **thirty** percent of the amount of the investment [or, in the case of a
4 qualified investment in a Missouri small business in a distressed community as defined by

5 section 135.530, a credit equal to sixty percent of the amount of the investment, and any investor
6 who makes a qualified investment in a community bank or a community development
7 corporation shall be entitled to receive a tax credit equal to fifty percent of the amount of the
8 investment if the investment is made in a community bank or community development
9 corporation for direct investment. The total amount of tax credits available for qualified
10 investments in Missouri small businesses shall not exceed thirteen million dollars and at least
11 four million dollars of the amount authorized by this section and certified by the department of
12 economic development shall be for investment in Missouri small businesses in distressed
13 communities. Authorization for all or any part of this four-million-dollar amount shall in no way
14 restrict the eligibility of Missouri small businesses in distressed communities, as defined in
15 section 135.530, for the remaining amounts authorized within this section. No more than twenty
16 percent of the tax credits available each year for investments in community banks or community
17 development corporations for direct investment shall be certified for any one project, as defined
18 in section 135.400]. **If the investment is in small businesses located in a distressed**
19 **community as defined in section 135.530 or in a rural area, the investor may be issued tax**
20 **credits equal to forty percent of the amount of the investment. Effective August 28, 2007,**
21 **ten million dollars of tax credits each fiscal year shall be available for qualified investments**
22 **in Missouri small businesses.** The tax credit shall be evidenced by a tax credit certificate in
23 accordance with the provisions of sections 135.400 to 135.430 and may be used to satisfy the
24 state tax liability of the owner of the certificate that becomes due in the tax year in which the
25 qualified investment is made, or in any of the ten tax years thereafter. [When the qualified small
26 business is in a distressed community, as defined in section 135.530, the tax credit may also be
27 used to satisfy the state tax liability of the owner of the certificate that was due during each of
28 the previous three years in addition to the year in which the investment is made and any of the
29 ten years thereafter.] No investor may receive a tax credit pursuant to sections 135.400 to
30 135.430 unless that person presents a tax credit certificate to the department of revenue for
31 payment of such state tax liability. The department of revenue shall grant tax credits in the same
32 order as established by subsection 1 of section 32.115, RSMo. Subject to the provisions of
33 sections 135.400 to 135.430, certificates of tax credit issued in accordance with these sections
34 may be transferred, sold or assigned by notarized endorsement thereof which names the
35 transferee.

36 2. [Five hundred thousand dollars in tax credits shall be available annually from the total
37 amount of tax credits authorized by section 32.110, RSMo, and subdivision (4) of subsection 2
38 of section 32.115, RSMo, as a result of investments in community banks or community
39 development corporations. Aggregate investments eligible for tax credits in any one Missouri
40 small business shall not be more than one million dollars. Aggregate investments eligible for

41 tax credits in any one Missouri small business shall not be less than five thousand dollars as of
42 the date of issuance of the first tax credit certificate for investment in that business.] **All**
43 **applications for the Missouri small business investment tax credit shall be submitted to the**
44 **department of economic development. The small business tax credit review committee**
45 **shall review and qualify all applications for the small business investment tax credit. The**
46 **department of economic development shall not issue any certificates without the approval**
47 **of the committee.**

48 3. [This section and section 620.1039, RSMo, shall become effective January 1, 2001.]
49 **If the investor is an individual, partnership, trust, or corporation meeting the eligibility**
50 **requirements of sections 135.403 to 135.414, a tax credit shall be issued if approved. In the**
51 **case of partnerships and nontaxable trusts, the individual partners or beneficiaries shall**
52 **be treated as the investors. If the investor is a financial institution that has made a loan not**
53 **to exceed one million dollars to the qualified Missouri small business, the tax credit shall**
54 **be held as a guarantee on the loan and shall only be issued and redeemed by the financial**
55 **institution if the small business defaults on the loan within the first five years of the loan.**

135.1200. 1. There is hereby created a "Regional Economic Development
2 Initiative" to promote individual and business investments in economic development within
3 the individual's or business' region through contributions to support regional economic
4 development organizations' initiatives.

5 2. As used in this section, the following words and phrases shall mean:

6 (1) "Department", the department of economic development;

7 (2) "Regional economic development organization", any legally formed and locally
8 recognized nonprofit organization representing multiple cities or counties with the goal of
9 promoting economic growth for its respective areas;

10 (3) "Tax credit", a credit against the tax otherwise due under chapter 143, RSMo,
11 excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or otherwise due
12 under chapter 147, 148, or 153, RSMo;

13 (4) "Taxpayer", any individual or entity subject to the tax imposed in chapter 143,
14 RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the
15 tax imposed in chapter 147, 148, or 153, RSMo.

16 3. A regional economic development organization may submit an application for
17 authorization for tax credits to the department. The application shall identify the proposed
18 use of such credit and the areas of emphasis for the use of such credits. Funds shall be
19 used in a manner which furthers the economic growth of the region consistent with the
20 goals and written plans of the regional economic development organization. Eligible
21 activities shall include but not be limited to the following:

22 **(1) Public infrastructure and related activities which include but are not limited to**
23 **the acquisition of land, water, sewer, streets, and buildings;**

24 **(2) Revolving loan programs; or**

25 **(3) Job training programs.**

26 **4. Applications shall include the following:**

27 **(1) A resolution passed by the regional economic development organization's board**
28 **approving the economic growth project;**

29 **(2) The method by which the regional economic development organization will**
30 **measure success of the initiative;**

31 **(3) The proposed fund-raising period;**

32 **(4) The proposed project period; and**

33 **(5) The amount of tax credit authorization sought.**

34 **5. In approving applications, the department shall consider:**

35 **(1) The number of persons, families, or businesses which would benefit from the**
36 **proposed project;**

37 **(2) The extent that additional public or private funds will be leveraged; and**

38 **(3) The potential impact of the project on existing businesses.**

39 **6. No application shall be authorized for an amount more than two million dollars**
40 **in tax credits. No more than fifty thousand per year and one hundred fifty thousand total**
41 **shall be used to support the operation of the regional economic development organization,**
42 **including but not limited to salaries, marketing, operating expenses, and equipment.**

43 **7. The regional economic development organization shall provide the department**
44 **with documentation of funds raised and expended under this section. Such organization**
45 **shall submit quarterly reports detailing funds expended and the progress of the project.**
46 **Within six months of the end of the project period, the regional economic development**
47 **organization shall report the results and economic success and submit an audit.**

48 **8. If at the conclusion of the project period the funds raised have not been expended**
49 **consistent with the approved application or the project has not been completed, an amount**
50 **corresponding to the respective tax credits issued shall be repaid. Repayment may be in**
51 **the form of cash paid directly to the department by the applicant or the voluntary**
52 **relinquishment of the tax credits.**

53 **9. For all taxable years beginning on or after December 31, 2007, any taxpayer shall**
54 **be entitled to a tax credit against any tax otherwise due under the provisions of chapter**
55 **143, 147, 148, or 153, RSMo, excluding withholding tax imposed by sections 143.191 to**
56 **143.265, RSMo, in the amount of fifty percent of any amount contributed by the taxpayer**
57 **to a regional economic development organization if the regional economic development**

58 organization's plan has been accepted and approved by the department. The contributions
59 shall be made within the fund-raising period approved by the department.

60 **10. The tax credit may be carried forward for up to five years, and the taxpayer**
61 **may sell, assign, or otherwise transfer the tax credits.**

62 **11. The aggregate of all tax credits authorized under this section shall not exceed**
63 **twelve million dollars in any year or thirty-six million dollars cumulatively.**

64 **12. The department and the department of revenue may promulgate rules to**
65 **implement the provisions of this section. Any rule or portion of a rule, as that term is**
66 **defined in section 536.010, RSMo, that is created under the authority delegated in this**
67 **section shall become effective only if it complies with and is subject to all of the provisions**
68 **of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter**
69 **536, RSMo, are nonseverable and if any of the powers vested with the general assembly**
70 **pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and**
71 **annul a rule are subsequently held unconstitutional, then the grant of rulemaking**
72 **authority and any rule proposed or adopted after August 28, 2007, shall be invalid and**
73 **void.**

74 **13. The provisions of this section shall not be used for retail projects.**

75 **14. Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:**

76 **(1) The provisions of the new program authorized under this section shall**
77 **automatically sunset six years after the effective date of this section unless reauthorized by**
78 **an act of the general assembly; and**

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

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

137.100. The following subjects are exempt from taxation for state, county or local
2 purposes:

3 (1) Lands and other property belonging to this state;

4 (2) Lands and other property belonging to any city, county or other political subdivision
5 in this state, including market houses, town halls and other public structures, with their furniture
6 and equipments, and on public squares and lots kept open for health, use or ornament. **As used**
7 **in this subdivision, "belonging" means holding a fee interest in real property without**
8 **regard to the presence of any inferior possessory interest in cases where lands are used so**
9 **as to facilitate air transportation at nonprimary commercial service airports and reliever**

10 **airports, as defined by the Federal Aviation Administration. Such exemption shall only**
11 **include taxes on underlying real estate and not on improvements to the land;**

12 (3) Nonprofit cemeteries;

13 (4) The real estate and tangible personal property which is used exclusively for
14 agricultural or horticultural societies organized in this state, including not-for-profit agribusiness
15 associations;

16 (5) All property, real and personal, actually and regularly used exclusively for religious
17 worship, for schools and colleges, or for purposes purely charitable and not held for private or
18 corporate profit, except that the exemption herein granted does not include real property not
19 actually used or occupied for the purpose of the organization but held or used as investment even
20 though the income or rentals received therefrom is used wholly for religious, educational or
21 charitable purposes;

22 (6) Household goods, furniture, wearing apparel and articles of personal use and
23 adornment, as defined by the state tax commission, owned and used by a person in his home or
24 dwelling place;

25 (7) Motor vehicles leased for a period of at least one year to this state or to any city,
26 county, or political subdivision or to any religious, educational, or charitable organization which
27 has obtained an exemption from the payment of federal income taxes, provided the motor
28 vehicles are used exclusively for religious, educational, or charitable purposes; and

29 (8) Real or personal property leased or otherwise transferred by an interstate compact
30 agency created pursuant to sections 70.370 to 70.430, RSMo, or sections 238.010 to 238.100,
31 RSMo, to another for which or whom such property is not exempt when immediately after the
32 lease or transfer, the interstate compact agency enters into a leaseback or other agreement that
33 directly or indirectly gives such interstate compact agency a right to use, control, and possess the
34 property; provided, however, that in the event of a conveyance of such property, the interstate
35 compact agency must retain an option to purchase the property at a future date or, within the
36 limitations period for reverters, the property must revert back to the interstate compact agency.
37 Property will no longer be exempt under this subdivision in the event of a conveyance as of the
38 date, if any, when:

39 (a) The right of the interstate compact agency to use, control, and possess the property
40 is terminated;

41 (b) The interstate compact agency no longer has an option to purchase or otherwise
42 acquire the property; and

43 (c) There are no provisions for reverter of the property within the limitation period for
44 reverters.

144.055. In addition to all other exemptions granted under this chapter, there is
2 also specifically exempted from the provisions of the local sales tax law as defined in section
3 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to
4 144.745 and from the computation of the tax levied, assessed, or payable under the local
5 sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections
6 144.010 to 144.525 and 144.600 to 144.745, all sales and leases of tangible personal property
7 by any county, city, incorporated town, or village, provided such sale or lease is authorized
8 under chapter 100, RSMo.

348.273. As used in sections 348.273 and 348.274, the following terms shall mean:

- 2 (1) "Collaborative research project", a research project conducted by a public
3 research institution or private not-for-profit research institution on behalf of and funded
4 by a private company;
- 5 (2) "Distressed community", as defined in section 135.530, RSMo;
- 6 (3) "Qualifying company", an independently owned and operated business which
7 is headquartered and located in this state and which is in need of venture capital and
8 cannot obtain conventional financing. Such business shall have no more than two hundred
9 employees, eighty percent of which are employed in this state. Such business shall be
10 involved in commerce for the purpose of manufacturing, processing, or assembling
11 products, conducting research and development, or providing services in interstate
12 commerce but excluding retail, real estate, real estate development, insurance, and
13 professional services provided by accountants, lawyers, or physicians. At the time
14 approval is sought, such business shall be a small business concern that meets the
15 requirements of the United States Small Business Administration's qualification size
16 standards for its venture capital program, as defined in the Small Business Investment Act
17 of 1958, as amended, and rules promulgated in 13 CFR 121.301(c), as amended;
- 18 (4) "Rural area", any city, town, or village with fewer than fifteen thousand
19 inhabitants and located in any county that is not part of a standard metropolitan statistical
20 area as defined by the United States Department of Commerce or its successor agency.
21 However, any such city, town, or village located in any county so defined as a standard
22 metropolitan statistical area may be designated a rural area by the office of rural
23 development if:
 - 24 (a) A substantial number of persons in such county derive their income from
25 agriculture;
 - 26 (b) The county has only one city within the county having a population of more
27 than fifteen thousand and is classified as a standard metropolitan statistical area; and

28 (c) All other cities, towns, and villages in that county have a population of less than
29 fifteen thousand;

30 (5) "Taxpayer", any person, partnership, corporation, trust, or limited liability
31 company;

32 (6) "Technology commercialization infrastructure project", the construction of or
33 improvements to an incubator, accelerator, or instrument center;

34 (7) "Venture capital", risk capital provided to a qualified Missouri company for
35 research, development, operating capital, commercialization activities, or marketing
36 thereof in exchange for some level of ownership and control of the business.

348.274. 1. The Missouri technology corporation may authorize up to ten million
2 dollars in tax credits per fiscal year. The tax credits may be allotted to one or more of the
3 categories listed in this section.

4 2. If a qualifying company is approved by the Missouri technology corporation, the
5 investors who contribute the first five hundred thousand dollars in venture capital to the
6 qualifying company may be issued a tax credit for thirty percent of such investment in the
7 year the investment is made. However, if the company invested in is located in a rural area
8 or a distressed community, the taxpayer may be issued a tax credit for forty percent of
9 such investment. A qualifying company that relocates its headquarters out of Missouri,
10 ceases to employ eighty percent of its employees in Missouri, alters the principal nature of
11 its operations, or divests itself of key assets shall upon demand by the Missouri technology
12 corporation pay the state of Missouri an amount equal to the amount of credits issued to
13 its contributors.

14 3. If a qualifying company is approved by the Missouri technology corporation, the
15 corporation may reserve tax credits for investors who contributed the initial five million
16 dollars in venture capital to the company. The credit shall be thirty percent of the amount
17 invested, unless the company is located in a rural or distressed community, in which case
18 the credit shall be forty percent. No credits shall be reserved with respect to investors who
19 received a credit under subsection 2 of this section. The reserved credits shall be issued
20 only for net loss of investment within five years of investing in the qualified company. No
21 credits shall be issued if the company has within the five years relocated its headquarters
22 out of Missouri, ceased to employ eighty percent of its employees in Missouri, altered the
23 principal nature of its operations, or divested itself of key assets.

24 4. If a technology commercialization infrastructure project is approved by the
25 Missouri technology corporation, a taxpayer may be issued a tax credit in the amount of
26 fifty percent of any amount contributed to the project.

27 **5. If a collaborative research project is approved by the Missouri technology**
28 **corporation, a business firm may receive a tax credit of up to fifty percent of expenditures**
29 **for industrial research conducted at a public research institution or private not-for-profit**
30 **research institution.**

31 **6. The credit may be used against the tax otherwise due under chapter 143, RSMo,**
32 **not including sections 143.191 to 143.265, RSMo. The tax credit may be used in the tax**
33 **year issued or any of the next three consecutive tax years.**

34 **7. Any tax credits issued under this section may be sold, assigned, exchanged, or**
35 **otherwise transferred.**

620.1892. 1. This section shall be known and may be cited as the "Small Business
2 **and Entrepreneurial Growth Act".**

3 **2. Unless otherwise modified in this section, the definitions provided in section**
4 **620.1878 shall apply to this section. For purposes of this section, the following terms shall**
5 **mean:**

6 **(1) "Department", the department of economic development;**

7 **(2) "Eligible small business project", a project approved by the department of**
8 **economic development through which a small business employer meets all of the following**
9 **qualifications:**

10 **(a) The small business employer's total payroll increases by at least twenty percent**
11 **due to the addition of new jobs or a business with less than five employees adds employees**
12 **so that the total number of employees is five or greater;**

13 **(b) The number of jobs added through the project by the small business employer**
14 **does not exceed the minimum number of jobs required to be eligible for benefits under any**
15 **program of the Missouri quality job act;**

16 **(c) Wages for the new jobs created through the project by the small business**
17 **employer are at least eighty-five percent of the average county wage as determined by the**
18 **department of economic development; and**

19 **(d) The project is not eligible for any benefits under the Missouri quality jobs act;**

20 **(3) "Small business employer", a firm, partnership, joint venture, association, or**
21 **a private or public corporation, whether organized for profit or not that qualifies as a**
22 **Missouri small business as defined in section 135.400, RSMo, provided that the term shall**
23 **not include:**

24 **(a) Gambling establishments (NAICS industry group 7132);**

25 **(b) Any company that is delinquent in the payment of any nonprotested taxes or**
26 **any other amounts due to the state or federal government or any other political subdivision**
27 **of this state; or**

28 (c) Any company that has filed for or has publicly announced its intention to file
29 for bankruptcy protection.

30 3. For all taxable years beginning on or after January 1, 2008, a small business
31 employer shall be allowed to receive benefits for an eligible small business project as
32 follows:

33 (1) Retention of all tax withheld under sections 143.191 to 143.265, RSMo, from the
34 newly created jobs for a period of one year; or

35 (2) If the employer also provides health insurance and pays more than fifty percent
36 of the premiums for all employees, the tax withheld under sections 143.191 to 143.265,
37 RSMo, from newly created jobs may be retained for a period of two years.

38 4. The department may promulgate rules to implement the provisions of this
39 section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,
40 that is created under the authority delegated in this section shall become effective only if
41 it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
42 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
43 and if any of the powers vested with the general assembly under chapter 536, RSMo, to
44 review, to delay the effective date, or to disapprove and annul a rule are subsequently held
45 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
46 after August 28, 2007, shall be invalid and void.

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