

SECOND REGULAR SESSION

HOUSE BILL NO. 1389

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KING.

4898H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

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

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

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

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

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

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

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

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

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

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

(6) "Full-time job", a job for which a person is compensated for an average of at least thirty-five hours per week for a twelve-month period, and one for which the qualified

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.

18 **manufacturing company or qualified supplier offers health insurance and pays at least fifty**
19 **percent of such insurance premiums;**

20 **(7) "NAICS industry classification", the most recent edition of the North American**
21 **Industry Classification System as prepared by the Executive Office of the President, Office**
22 **of Management and Budget;**

23 **(8) "New job", the same meaning as such term is defined under section 620.1878;**

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

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

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

35 **(a) Manufactures goods at a facility in Missouri;**

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

43 **(c) Manufactures a new product or commences capital improvements to its facility**
44 **necessary for the manufacture of such new product or modifies or expands the**
45 **manufacture of an existing product or commences capital improvements to its facility**
46 **necessary for the modification or expansion of the manufacture of such existing product;**

47 **(d) Continues to meet the requirements of paragraphs (a) to (c) of this subdivision**
48 **for the withholding period; and**

49 **(e) Does not receive benefits under section 620.1910;**

50 **(12) "Qualified supplier", a manufacturing company that:**

51 **(a) Attests to the department that it derives more than ten percent of the total**
52 **annual sales of the company from sales to a qualified manufacturing company;**

53 **(b) Adds five or more new jobs;**

54 (c) Has an average wage, as defined under section 135.950, for such new jobs that
55 is equal to or exceeds the lower of the county average wage for Missouri as determined by
56 the department using NAICS industry classifications, but not lower than sixty percent of
57 the statewide average wage;

58 (d) Provides health insurance for all full-time jobs and pays at least fifty percent
59 of the premiums of such insurance; and

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

61 (13) "Retained job", the number of full-time jobs of persons employed by the
62 qualified manufacturing company located at the facility that existed as of the last working
63 day of the month immediately preceding the month in which notice of intent is submitted;

64 (14) "Statewide average wage", an amount equal to the quotient of the sum of the
65 total gross wages paid for the corresponding four calendar quarters divided by the average
66 annual employment for such four calendar quarters, which shall be computed using the
67 Quarterly Census of Employment and Wages Data for All Private Ownership Businesses
68 in Missouri, as published by the Bureau of Labor Statistics of the United States
69 Department of Labor;

70 (15) "Withholding period", the seven- or ten-year period in which a qualified
71 manufacturing company may receive benefits under this section; and

72 (16) "Withholding tax", the same meaning as such term is defined under section
73 620.1878.

74 3. The department shall respond within thirty days to a qualified manufacturing
75 company or a qualified supplier who provides a notice of intent with either an approval
76 or a rejection of the notice of intent. Failure to respond on behalf of the department shall
77 result in the notice of intent being deemed an approval for the purposes of this section.

78 4. A qualified manufacturing company that manufactures a new product may,
79 upon the department's approval of a notice of intent and the execution of an agreement
80 that meets the requirements of subsection 9 of this section, but no earlier than January 1,
81 2017, retain one hundred percent of the withholding tax from full-time jobs at the facility
82 for a period of ten years. A qualified manufacturing company that modifies or expands
83 the manufacture of an existing product may, upon the department's approval of a notice
84 of intent and the execution of an agreement that meets the requirements of subsection 9 of
85 this section, but no earlier than January 1, 2017, retain fifty percent of the withholding tax
86 from full-time jobs at the facility for a period of seven years. Except as otherwise allowed
87 under subsection 7 of this section, the commencement of the withholding period may be
88 delayed by no more than twenty-four months after execution of the agreement at the option
89 of the qualified manufacturing company. Such qualified manufacturing company shall be

90 eligible for participation in the Missouri quality jobs program under sections 620.1875 to
91 620.1890 for any new jobs for which it does not retain withholding tax under this section,
92 provided all qualifications for such program are met.

93 **5. A qualified supplier may, upon approval of a notice of intent by the department,**
94 **retain all withholding tax from new jobs for a period of three years from the date of**
95 **approval of the notice of intent or for a period of five years if the supplier pays wages for**
96 **the new jobs equal to or greater than one hundred twenty percent of county average wage.**
97 **Notwithstanding any other provision of law to the contrary, a qualified supplier that is**
98 **awarded benefits under this section shall not receive any tax credit or exemption or be**
99 **entitled to retain withholding under sections 100.700 to 100.850, sections 135.100 to**
100 **135.150, sections 135.200 to 135.286, sections 135.900 to 135.906, sections 135.950 to**
101 **135.970, or section 620.2010 for the same jobs.**

102 **6. Notwithstanding any other provision of law to the contrary, the maximum**
103 **amount of withholding tax that may be retained by any one qualified manufacturing**
104 **company under this section shall not exceed ten million dollars per calendar year. The**
105 **aggregate amount of withholding tax that may be retained by all qualified manufacturing**
106 **companies under this section shall not exceed fifteen million dollars per calendar year.**

107 **7. Notwithstanding any other provision of law to the contrary, any qualified**
108 **manufacturing company that is awarded benefits under this section shall not**
109 **simultaneously receive tax credits or exemptions under sections 100.700 to 100.850, sections**
110 **135.100 to 135.150, sections 135.200 to 135.286, section 135.535, or sections 135.900 to**
111 **135.906 for the jobs created or retained or capital improvement which qualified for**
112 **benefits under this section. If the qualified manufacturing company is eligible to retain**
113 **withholding tax in any other state program in addition to this section, the commencement**
114 **of the withholding period may not be delayed during the time that the qualified**
115 **manufacturing company is participating in the other state program. The qualified**
116 **manufacturing company shall first receive the benefits from the other state program. After**
117 **such time that the qualified manufacturing company is no longer eligible to participate in**
118 **the other state program, the qualified manufacturing company may receive any remaining**
119 **benefits under this section for the remainder of the initial withholding period. These other**
120 **state programs include, but are not limited to, the Missouri Works Program under sections**
121 **620.2000 to 620.2020, the Missouri works jobs training program under sections 620.800 to**
122 **620.809, the real property tax increment allocation redevelopment act under sections**
123 **99.800 to 99.865, and the Missouri downtown and rural economic stimulus act under**
124 **sections 99.915 to 99.980. If any qualified manufacturing company also participates in the**
125 **Missouri works jobs training program under sections 620.800 to 620.809, such qualified**

126 manufacturing company shall not retain any withholding tax that has already been
127 allocated for use in the new jobs training program. Any qualified manufacturing company
128 or qualified supplier that is awarded benefits under this program and knowingly hires
129 individuals who are not allowed to work legally in the United States shall immediately
130 forfeit such benefits and shall repay the state an amount equal to any withholding taxes
131 already retained. Subsection 5 of section 285.530 shall not apply to qualified
132 manufacturing companies or qualified suppliers that are awarded benefits under this
133 program.

134 8. The department may promulgate rules to implement the provisions of this
135 section. Any rule or portion of a rule, as that term is defined under section 536.010, that
136 is created under the authority delegated in this section shall become effective only if it
137 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
138 section 536.028. This section and chapter 536 are nonseverable, and if any of the powers
139 vested with the general assembly pursuant to chapter 536 to review, to delay the effective
140 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
141 grant of rulemaking authority and any rule proposed or adopted after August 28, 2016,
142 shall be invalid and void.

143 9. Within six months of completion of a notice of intent required under this section,
144 the qualified manufacturing company shall enter into an agreement with the department
145 that memorializes the content of the notice of intent, the requirements of this section, and
146 the consequences for failing to meet such requirements, which shall include the following:

147 (1) If the amount of capital investment made by the qualified manufacturing
148 company is not made within the two-year period provided for such investment, the
149 qualified manufacturing company shall immediately cease retaining any withholding tax
150 with respect to jobs at the facility and shall forfeit all rights to retain withholding tax for
151 the remainder of the withholding period. In addition, the qualified manufacturing
152 company shall repay any amounts of withholding tax retained plus interest of five percent
153 per annum. However, in the event that such capital investment shortfall is due to economic
154 conditions beyond the control of the qualified manufacturing company, the director may,
155 at the qualified manufacturing company's request, suspend rather than terminate its
156 privilege to retain withholding tax under this section for up to three years. Any such
157 suspension shall extend the withholding period by the same amount of time. No more than
158 one such suspension shall be granted to a qualified manufacturing company; and

159 (2) If the qualified manufacturing company discontinues the manufacturing of the
160 new product and does not replace it with a subsequent or additional new product
161 manufactured at the facility at any time during the withholding period, the qualified

162 **manufacturing company shall immediately cease retaining any withholding tax with**
163 **respect to jobs at that facility and it shall forfeit all rights to retain withholding tax for the**
164 **remainder of the withholding period.**

165 **10. Prior to March first each year, the department shall provide a report to the**
166 **general assembly including the names of participating qualified manufacturing companies**
167 **or qualified suppliers, location of such companies or suppliers, the annual amount of**
168 **benefits provided, the estimated net state fiscal impact including direct and indirect new**
169 **state taxes derived, and the number of new jobs created or jobs retained.**

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

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

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

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

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