

Substitute for HOUSE BILL No. 2430

AN ACT concerning the promoting employment across Kansas act; amending K.S.A. 2013 Supp. 74-50,212, 74-50,213 and 74-50,219 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2013 Supp. 74-50,212 is hereby amended to read as follows: 74-50,212. (a) In order to qualify for benefits under this act a qualified company shall:

(1) Relocate to Kansas an existing business facility, office, department or other operation doing business outside the state of Kansas and locate the jobs directly related to such relocated business facility, office, department or other operation in Kansas;

(2) locate a new business facility, office, department or other operation in Kansas and locate the jobs directly related to such business facility, office, department or other operation in Kansas; or

(3) expand an existing business facility, office, department or other operation located in the state of Kansas and locate the jobs directly related to such business facility, office, department or other operation in Kansas, except that no payroll withholding taxes shall be retained prior to January 1, 2012.

A qualified company may utilize or contract with a third-party employer to perform services whereby the third-party employer serves as the legal employer of the new employees providing services to the qualified company and such services are performed in Kansas and the third-party employer and the new employees are subject to the Kansas withholding and declaration of estimated tax act.

(b) Any qualified company, approved by the secretary for benefits pursuant to paragraph (a), that locates its business operation in a metropolitan county and will hire at least 10 new employees within two years from the date the qualified company enters into an agreement with the secretary pursuant to K.S.A. 2013 Supp. 74-50,213, and amendments thereto, or any qualified company, approved by the secretary for benefits pursuant to paragraph (a), that locates its business operation in a non-metropolitan county and will hire at least five new employees within two years from the date the qualified company enters into an agreement with the secretary pursuant to K.S.A. 2013 Supp. 74-50,213, and amendments thereto, shall: (1) Be eligible to retain 95% of the qualified company's Kansas payroll withholding taxes for such new employees being paid the county median wage or higher for a period of up to:

(A) Five years if the median wage *or average wage* paid to the new employees is equal to at least 100% of the county median wage;

(B) six years if the median wage *or average wage* paid to the new employees is equal to at least 110% of the county median wage;

(C) seven years if the median wage *or average wage* paid to the new employees is equal to at least 120% of the county median wage; or

(2) be eligible to retain 95% of the qualified company's Kansas payroll withholding taxes for such new employees being paid the county median wage or higher for a period of up to five years if the median wage *or average wage* paid to the new employees is equal to at least 100% of the NAICS code industry average wage.

(c) Any qualified company, approved by the secretary for benefits pursuant to paragraph (a), that engages in a high-impact project whereby the qualified company will hire at least 100 new employees within two years from the date the qualified company enters into an agreement with the secretary pursuant to K.S.A. 2013 Supp. 74-50,213, and amendments thereto, shall be eligible to retain 95% of the qualified company's Kansas payroll withholding taxes for such new employees being paid the county median wage or higher for a period of up to:

(1) Seven years if the median wage *or average wage* paid to the new employees is equal to at least 100% of the county median wage;

(2) eight years if the median wage *or average wage* paid to the new employees is equal to at least 110% of the county median wage;

(3) nine years if the median wage *or average wage* paid to the new employees is equal to at least 120% of the county median wage; or

(4) ten years if the median wage *or average wage* paid to the new employees is equal to at least 140% of the county median wage.

(d) In the event that a qualified company contracts with a third party as described in subsection (a), the third party shall remit payments equal to the amount of Kansas payroll withholding taxes the qualified company is eligible to retain under this section to the qualified company, and report

such amount to the department of revenue as required pursuant to subsection (a) of K.S.A. 2013 Supp. 74-50,214, and amendments thereto.

(e) Commencing January 1, 2013, and ending ~~December 31, 2014~~ *June 30, 2018*, any company, which meets the criteria provided pursuant to the provisions of K.S.A. 2013 Supp. 74-50,211, and amendments thereto, that retains the employees of an existing business unit located in Kansas and enters into an agreement with the secretary pursuant to K.S.A. 2013 Supp. 74-50,213, and amendments thereto, shall be eligible to retain 95% of the qualified company's Kansas payroll withholding taxes for such employees for a period of up to five years.

(f) (1) Commencing January 1, 2013, and ending ~~December 31, 2014~~ *June 30, 2018*, pursuant to the provisions of subsection (e), the secretary of commerce, in the secretary's sole determination, may provide the benefits of the promoting employment across Kansas act for situations where it is deemed necessary by the secretary that the state of Kansas provide incentives for a company or its operations currently located in Kansas to remain in Kansas so as to keep its retained jobs. The secretary shall establish and verify that a prospective company has competitive alternatives that it is seriously considering and that a company's relocation may be imminent. Furthermore, the secretary shall assess:

(A) Whether the retention of the company or its operations is important to the economic vitality of the state;

(B) the area where such company or operations is located; or

(C) whether the retention of the company or its operations is important to a particular industry in the state due to any number of factors including, but not limited to, the quantity, quality or wages of the retained jobs involved.

(2) Effective January 1, 2013, and ending ~~December 31, 2014~~ *June 30, 2018*, the secretary may use the promoting employment across Kansas act in conjunction with other economic development programs to develop a retention package.

(g) The provisions of this act as in effect prior to the effective date of this act shall apply to employers who have entered into agreements with the secretary prior to July 1, 2011. The provisions of this act shall apply to employers who enter into agreements with the secretary on and after July 1, 2011.

(h) In the event a qualified company entered into an agreement for benefits under this section prior to January 1, 2013, such qualified company may request the secretary to extend the benefit term of such agreement by a period of up to two additional years. If in the secretary's discretion it is necessary to provide the qualified company with all benefits intended under such agreement, the extension may be granted.

Sec. 2. K.S.A. 2013 Supp. 74-50,213 is hereby amended to read as follows: 74-50,213. (a) Any qualified company meeting the requirements of K.S.A. 2013 Supp. 74-50,212, and amendments thereto, may apply to the secretary for benefits under this act. The application shall be submitted on a form and in a manner prescribed by the secretary, and shall include: (1) Evidence that the applicant is a qualified company; and (2) evidence that the applicant meets the requirements of K.S.A. 2013 Supp. 74-50,212, and amendments thereto.

(b) The secretary may either approve or disapprove the application. Any qualified company whose application is approved shall be eligible to receive benefits under this act as of the date such qualified company enters into an agreement with the secretary in accordance with this section.

(c) Upon approval of an application for benefits under this act, the secretary may enter into an agreement with the qualified company for benefits under this act. If necessary, the secretary may also enter into an agreement with any third party described in subsection (a) of K.S.A. 2013 Supp. 74-50,212, and amendments thereto, or such third party may be a party to the agreement between the qualified company and the secretary. The agreement shall commit the secretary to certify to the secretary of revenue: (1) That the qualified company is eligible to receive benefits under this act; (2) the number of new employees hired by the qualified company; and (3) the amount of gross wages being paid to each new employee.

(d) The agreement between the qualified company and the secretary

shall be entered into before any benefits may be provided under this act, and shall specify that should the qualified company fail to comply with the terms and conditions set forth in the agreement, or fails to comply with the provisions set forth in this act, the secretary may terminate the agreement, and the qualified company shall not be entitled to any further benefits provided under this act and shall be required to remit to the state an amount equal to the aggregate Kansas payroll withholding taxes retained by the qualified company, or remitted to the qualified company by a third party, pursuant to this act as of the date the agreement is terminated.

(e) A qualified company that is already receiving benefits pursuant to this act may apply to the secretary for additional benefits if the qualified company meets the requirements of K.S.A. 2013 Supp. 74-50,212, and amendments thereto.

(f) A qualified company seeking benefits shall be allowed to participate in the IMPACT program pursuant to K.S.A. 74-50,102 et seq., and amendments thereto, but shall not be allowed to participate in any other program in which any portion of such qualified company's Kansas payroll withholding taxes have been pledged to finance indebtedness or transferred to or for the benefit of such company. A qualified company shall not be allowed to claim any credits under K.S.A. 79-32,153, 79-32,160a or 79-32,182b, and amendments thereto, if such credits would otherwise be earned for the hiring of new employees and the qualified company has retained any Kansas payroll withholding taxes from wages of such employees. A qualified company shall not be eligible to receive benefits under K.S.A. 2013 Supp. 74-50,212, and amendments thereto, and under K.S.A. 74-50,102 et seq., and amendments thereto, for the same new employees.

(g) (1) Under no circumstances shall the total amount of benefits ~~authorized or granted to~~ *received by* the aggregate of all expanding businesses, as such term is defined in K.S.A. 2013 Supp. 74-50,211, and amendments thereto, under this act exceed \$4,800,000 in the fiscal year commencing on July 1, 2011, ~~and \$6,000,000 in any the fiscal year commencing on or after July 1, 2012, \$12,000,000 in the fiscal year commencing on July 1, 2013, \$18,000,000 in the fiscal year commencing on July 1, 2014, \$24,000,000 in the fiscal year commencing on July 1, 2015, \$30,000,000 in the fiscal year commencing on July 1, 2016, \$36,000,000 in the fiscal year commencing on July 1, 2017, and \$42,000,000 in any fiscal year commencing on or after July 1, 2018.~~

(2) Under no circumstances shall the total amount of benefits ~~authorized or granted to~~ *received by* the aggregate of businesses under subsections (e) or (f) of K.S.A. 2013 Supp. 74-50,212, and amendments thereto, exceed \$1,200,000 in the fiscal year commencing on July 1, 2012, \$2,400,000 in the fiscal year commencing on July 1, 2013, ~~and \$1,200,000 in the fiscal year commencing on July 1, 2014, \$1,200,000 in the fiscal year commencing on July 1, 2015, \$1,200,000 in the fiscal year commencing on July 1, 2016, and \$1,200,000 in the fiscal year commencing on July 1, 2017.~~

(h) The secretary shall adopt rules and regulations necessary to implement and administer the provisions of this act.

Sec. 3. K.S.A. 2013 Supp. 74-50,219 is hereby amended to read as follows: ~~74-50,219. No person who was a member of the legislature on the effective date of this act may avail themselves of the benefits under the provisions of K.S.A. 2013 Supp. 74-50,210 through 74-50,216, and amendments thereto, until after July 1, 2015~~ *On and after July 1, 2014, no member of the legislature, either elected or appointed, shall while in office and within three years after the expiration of such legislator's term of office avail such person of the benefits available under the provisions of K.S.A. 2013 Supp. 74-50,212 through 74-50,216, and amendments thereto.*

Sec. 4. K.S.A. 2013 Supp. 74-50,212, 74-50,213 and 74-50,219 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.