

# WHAT'S NEW IN ECONOMIC INCENTIVES?

## THE MISSOURI WORKS PROGRAM - WHAT YOU NEED TO KNOW

by Lori L. Bockman, Rishi Diwan and Monica Connors

Missouri municipalities have long sought to foster economic development in order to bolster the economic health of their communities. Often this process has involved coordinating with the state of Missouri (State) to offer various economic incentives to businesses. This is still the case, but four of the former state-level economic development incentive programs have now been replaced with the new Missouri Works Program that was enacted by House Bill 184 and signed into law by Gov. Jay Nixon on July 11, 2013. Below is an overview of the new Missouri Works program.

The new Missouri Works program (Missouri Works or Program) replaces the former programs commonly known as Missouri Quality Jobs, Enhanced Enterprise Zones, Development Credits and Rebuilding Communities Credits. Missouri Works is administered by the Missouri Department of Economic Development (DED) and is designed to simplify and streamline the process of conferring benefits on qualified companies to spur economic growth and increase career opportunities for Missourians. A unique aspect is that the new Program includes discretionary job retention, as well as job creation incentives. Missouri Works also enables a wider variety of businesses to receive benefits.

Both for-profit and non-profit businesses are able to participate in the Program's five sub-programs that allow a qualified business to retain the state withholding tax that would otherwise be due for the new jobs gained, and/or to obtain state income tax credits. The tax credits are refundable, transferable and/or saleable. To obtain such benefits, qualified companies are required to meet the Program's minimum new job threshold and average wage and health insurance requirements. The amount of benefits that a qualified company can

receive is based on a percentage of the payroll of the new jobs created by the business.

In many cases, Missouri Works provides lower average wage and job creation thresholds than the previous Missouri Quality Jobs program. While no limit exists on the total amount of retained withholding taxes allowed to qualified companies under the Program annually, tax credits granted under the Program are subject to an overall cap of \$106 million for the upcoming 2014 fiscal year (that increases to \$111 million for the 2015 fiscal year and \$116 million thereafter).

### BUSINESS ELIGIBILITY

Unlike the old Missouri Quality Jobs program, under Missouri Works, both for-profit and non-profit businesses are eligible, as well as the headquarters, administrative offices, and research and development facilities of otherwise excluded businesses if the facilities serve a multistate territory. A qualified company must provide health insurance to all full-time employees of all its facilities located in the State and pay at least 50 percent of such premiums to maintain eligibility.

No benefits are available, however, if the company performs significant, project-specific site work, acquires machinery or equipment for the project, or publicly announces its intention to make new capital investments at the project facility before receiving a State proposal or approval of benefits.

Some ineligible business classifications include:

- Gambling establishments,
- Some store front consumer-based retail trade establishments,
- Food and drinking places,
- Public utilities,
- Educational services,
- Religious organizations,
- Public administration,

- Ethanol distillation or production,
- Biodiesel production, and
- Healthcare and social services.

### PROGRAM ELIGIBILITY

Once a qualified company enters a written agreement with the State, the Missouri Works program provides benefits for both new and existing companies that are either creating or retaining in-state jobs. DED considers several factors, including the project's fiscal benefit for the State, as well as the overall size and quality of the proposed project, in order to determine the appropriate amount of credits for each eligible business. The new Program establishes five sub-programs that have been named Retention Works, Zone Works, Rural Works, Statewide Works and Mega Works. Each sub-program differs based on the number of jobs created, wages, geography and minimum capital investment.

All five sub-programs (Retention Works, Zone Works, Rural Works, Statewide Works, and Mega Works) require qualified companies to offer health insurance to all full-time employees and pay at least 50 percent of the associated costs. All sub-programs offer tax credit benefits of up to 6 percent of new payroll (except Mega Works that allows 7 percent in certain situations) for a period of up to five years from the creation date of the new jobs (six years if the company is an existing Missouri business), with the exception of Retention Works that provides tax credit benefits for up to 10 years.

Retention Works is a new, first-come, first-served job retention sub-program with funding capped at \$6 million per year. Retention Works requires businesses to maintain a minimum of 50 full-time jobs paying 90 percent of the county average wage at the project facility for 10 years, with a minimum capital investment



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that exceeds 50 percent of the benefit received under the Program.

Whereas the old Quality Jobs program required companies to create at least 40 jobs in a two-year period, the Statewide Works sub-program reduces that requirement to only 10 jobs in a two-year period in metropolitan areas, and only two jobs coupled with a \$100,000 investment in rural locations (under the Rural Works sub-program) or in special zones (under the Zone Works sub-program). This will allow smaller projects to receive assistance and encourage development where the State identifies greater need. These changes also may help bring out-of-state development into Missouri by providing more attractive benefits than its neighboring states. For instance, Kansas currently requires businesses to create 10 jobs in metropolitan areas or five jobs in rural areas in order to receive any tax incentives. Nonetheless, Missouri businesses still have the opportunity to choose between the old Quality Jobs program and the new Missouri Works program for future phases of a project if it is already

enrolled in the old Quality Jobs program and the project has multiple phases.

For large employers, the Mega Works sub-program allows a qualified company that creates 100 or more jobs to retain 6 percent of new payroll for a period of five years from the date the new jobs were created, so long as the average wage of the new payroll equals or exceeds 120 percent of the county average wage where the project is located. Further, a qualified company may retain up to 7 percent of new payroll over a period of five years if it creates 100 or more jobs and the average wage of the new payroll equals or exceeds 140 percent of the applicable county average wage.

Under all sub-programs, the DED must approve a Notice of Intent for benefits. A Notice of Intent must be filed prior to hiring employees for the new jobs in order to maintain eligibility. The DED is to respond to the notice within 30 days. After receiving approval, the qualified company will have two years to meet the minimum thresholds of the applicable sub-program.

Program incentives are tied to the payroll generated by new job creation or job retention and are determined by a variety of factors. In determining the amount of incentives, the DED will consider:

- The significance of the qualified company's need for Program's benefits,
- The amount of projected net fiscal benefit to the State and the period in which the State would realize such benefit,
- The overall size and quality of the proposed project,
- The financial stability and creditworthiness of the qualified company,
- The level of economic distress in the area,
- The competitiveness of alternative locations for the project facility, and
- The percent of local incentives committed.

The Program's benefits are limited

to the projected net fiscal benefit to the State, as determined by DED, and will not exceed the least amount necessary to obtain a commitment by the company to initiate the project.

#### PROGRAM RESTRICTIONS

If a qualified company's average wage is below the applicable percentage of the county average wage, the number of jobs is below the number required, the company has not maintained the mandatory health insurance, or the company fails to meet any other commitments delineated in their agreement with the State, the company will not receive tax credits and will not be allowed to keep the withholding tax for the balance of the project period.

In addition, any qualified company awarded benefits under the Program that knowingly hires individuals who are not allowed to work legally in the United States will be required to immediately forfeit such benefits and repay the State an

amount equal to any tax credits already redeemed and any withholding taxes already retained.

Note that a qualified company cannot earn benefits for the same capital investment or the same jobs for the Development Tax Credits program, the Enhanced Enterprise Zone program, the Manufacturing Jobs program, the Quality Jobs program, or the Rebuilding Communities program. In addition, special conditions apply when Missouri Works is used at the same time as other programs that affect State withholding taxes (Missouri Training, State TIF, MODESA, etc.). The benefits available for a specific project under other state programs that utilize withholding tax from the company's new or retained jobs must first be credited to the other state program before the Missouri Work's withholding retention level will begin to accrue. Similar to the old Missouri Quality Jobs program, the State retains the ability to withhold benefits in one year and allow a company back into the Program in a subsequent year.

In summary, while programs have existed for many years as tools for Missouri municipalities to use in encouraging businesses to locate or remain in their communities and provide jobs, the rules have changed and more favorable incentives are now available to incentivize economic development under the Missouri Works program. □

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