

CHAPTER 80
HOUSE BILL No. 2265

AN ACT concerning economic development; concerning qualified manufacturers of cellulose film; Kansas downtown redevelopment act; amending K.S.A. 2004 Supp. 12-17,122 and 12-17,125 and repealing the existing sections.

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

New Section 1. The provisions of this act shall be known as and may be cited as the “qualified manufacturer act.”

New Sec. 2. For the purposes of this act:

(a) “Agreement” means an agreement entered into between the qualified manufacturer and the secretary for benefits under this act.

(b) “Gross compensation” means gross wages and benefits paid to or on behalf of employees receiving wages.

(c) “Qualified manufacturer” means a person, corporation, partnership or other entity engaged in the production of cellulose film in Shawnee county, Kansas, or proposing to engage in the production of cellulose film in Shawnee county, Kansas, that satisfies conditions imposed by the secretary which shall include, among other conditions, that the person, corporation, partnership or other entity meet the requirements of subsection (a) of section 3, and amendments thereto.

(d) “Secretary” means the secretary of commerce.

New Sec. 3. (a) A qualified manufacturer may be eligible for a period of three and no more than four calendar years to receive an amount, not to exceed \$1,000,000 in the aggregate, from the special qualified manufacturer fund, if the qualified manufacturer complies with the following requirements:

(1) Has paid or agrees to pay at least \$10,000,000 in annual gross compensation to employees located in Kansas;

(2) has an average wage and salary of at least \$50,000 plus benefits;

(3) has currently at least \$26,000,000 total investment in Kansas;

(4) employs at least 190 full-time equivalent employees in Kansas as defined in K.S.A. 74-50,114, and amendments thereto; and

(5) enters into an agreement with the secretary in which in return for the benefits authorized pursuant to this act, the qualified manufacturer agrees to maintain at least 190 full-time equivalent employees as defined in K.S.A. 74-50,114, and amendments thereto, in Kansas for a period of five years or such longer period as the qualified manufacturer and the secretary may agree.

(b) A qualified manufacturer may apply to the secretary to enter into an agreement for benefits under this act. The application shall include (1) evidence that the applicant is a qualified manufacturer as defined in section 2, and amendments thereto, and (2) that the qualified manufacturer intends to employ at least 190 full-time equivalent employees for a period of at least five years commencing from the date of the agreement.

(c) Upon receipt of an application described in subsection (b), if the secretary finds that the application is from a qualified manufacturer, the secretary may enter into an agreement with the qualified manufacturer for benefits under this act. The agreement shall commit the secretary to request that for a period of three years, but in no event longer than four years at the discretion of the secretary, from the date of the executed agreement, an amount not to exceed \$1,000,000, from the special qualified manufacturer fund created in subsection (d) and shall be transferred by the state treasurer to the qualified manufacturer. The agreement shall set forth the terms and conditions under which the secretary shall direct the state treasurer to transfer revenues in the special qualified manufacturer fund to the qualified manufacturer. The agreement shall specifically provide that if at any time the balance of the fund is insufficient to make a payment prescribed by the agreement, that the qualified manufacturer shall not be entitled to the payment. In the event the qualified manufacturer fails to comply with the terms and conditions set forth in the agreement, the agreement shall provide that the secretary can terminate the agreement, and the qualified manufacturer shall not be entitled to further distributions from the special qualified manufacturer fund.

(d) The state treasurer shall credit all revenue collected or received from withholding upon Kansas wages paid by a taxpayer which is a qualified manufacturer, as certified by the secretary, to the special qualified

manufacturer fund, which fund is hereby created in the custody of the state treasurer, but which fund shall not be a part of the state treasury or the state general fund. Distributions from the fund shall not be subject to appropriation. On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the special qualified manufacturer fund interest earnings based on: (1) The average daily balance of moneys in the special qualified manufacturer fund for the preceding month; and (2) the net earnings rate of the pooled money investment portfolio for the preceding month. The provisions of this section shall expire when all revenues that, pursuant to the agreement are to be paid to the qualified manufacturer, have been distributed. Moneys credited to the special qualified manufacturer fund in accordance with the foregoing provisions shall be distributed to or on the order of the secretary. The state treasurer shall make such distributions on such dates as mutually agreed to by the secretary and the state treasurer, serving as paying agent pursuant to the terms of the agreement. The total of all distributions under this section shall not exceed \$1,000,000.

(e) Income tax refunds and balances due resulting from withholding upon Kansas wages paid by the qualified manufacturer pursuant to K.S.A. 79-3294 et seq., and amendments thereto, shall be reconciled on at least an annual basis by a method defined in the agreement described in subsection (c).

(f) A qualified manufacturer shall not be allowed to participate in the IMPACT act or program pursuant to K.S.A. 74-50,102 et seq., and amendments thereto. The secretary may include provisions in the agreement described in subsection (c) to limit or reduce the amount of eligible credits related to the provisions of this act, including, but not limited to, those allowed pursuant to K.S.A. 79-32,160a or 79-32,182b, and amendments thereto. Nothing in this subsection shall be construed to prohibit the qualified manufacturer from receiving credits allowed by law for any investment not related to the provisions of this act.

(g) The agreement between the qualified manufacturer and the secretary shall be entered into before any benefits may be provided under this act, and shall specify that should the qualified manufacturer fail to maintain the employment levels set forth in the agreement, that the qualified manufacturer shall be required to repay an amount in proportion to the level that employment has fallen below the agreement, which has been distributed to the qualified manufacturer from the special qualified manufacturer fund, as may be determined by the secretary.

(h) Benefits authorized pursuant to this act shall not be used to provide for or to increase compensation packages, rewards, bonuses, pensions, enhanced retirement, stock options, buyouts or substantial severance pay or other financial benefits to any chief executive officer, chief financial officer or any officers of the company.

New Sec. 4. (a) The secretary shall transmit annually to the governor, the standing committee on commerce of the senate, the standing committee on economic development of the house of representatives and the joint committee on economic development, a report, based upon information received from each qualified manufacturer for which benefits have been issued during the preceding year, describing the following: (1) The manner in which the purpose, as described in this act, has been carried out;

(2) an estimate of jobs created and jobs preserved by cash investments made in qualified manufacturers; and

(3) an estimate of the multiplier effect on the Kansas economy of the cash investments made pursuant to this act.

(b) The secretary shall conduct an annual review of the activities undertaken pursuant to this act to ensure that benefits issued pursuant to this act are issued in compliance with the provisions of this act or rules and regulations promulgated by the department with respect to this act.

(c) Any violation of the reporting requirements set forth in this section shall be grounds for loss of designation as a qualified manufacturer under this section.

(d) If the secretary determines that a qualified manufacturer is not in substantial compliance with the requirements of this act, the secretary, by written notice, shall inform the officers of the qualified manufacturer that such qualified manufacturer will lose its designation as a qualified manufacturer unless such qualified manufacturer corrects the deficiencies and is once again in compliance with the requirements for designa-

tion.

Sec. 5. K.S.A. 2004 Supp. 12-17,122 is hereby amended to read as follows: 12-17,122. For the purposes of this act, the following terms shall have the meanings provided herein, unless the context clearly indicates, otherwise:

(a) “Base year appraised value” means the appraised value, as determined by the county appraiser, of the real property located within the boundaries of a downtown redevelopment area for the tax year immediately preceding a twelve-month period in which an investment for improvements to the real property or trade fixtures therein, equal to or exceeding 25% of the appraised value of the real property, was made;

(b) “core commercial district” means an area of a city or unincorporated area of a county characterized by a variety of compact commercial, office, residential and public uses that make it most directly analogous to central business districts commonly identified by zoning regulations;

(c) “distressed community” means an area in which 20% or more of the population of all ages for each census tract located within the area has an income below the poverty level as reported in the most recently completed decennial census published by the U.S. bureau of the census;

(d) “downtown redevelopment area” or “redevelopment area” means an area designated by the secretary of commerce pursuant to this act for the purpose of identifying real property that is eligible to receive tax benefits as provided in K.S.A. 2004 Supp. 12-17,124, and amendments thereto;

(e) “fund” means the fund created by the governing body of a city or unincorporated area of a county to comply with the requirements of this act;

(f) “governing body” means the governing body of a city or the unincorporated area of a county;

(g) “real property taxes” means all taxes levied on an ad valorem basis upon land and the improvements thereon;

(h) “secretary” means the secretary of the department of commerce; and

(i) “tax increment” means all real property taxes assessed pursuant to K.S.A. 79-1439, and amendments thereto, to the amount of the current appraised value of the property in excess of the base year appraised value of the property located within a redevelopment area or proposed redevelopment area.

Sec. 6. K.S.A. 2004 Supp. 12-17,125 is hereby amended to read as follows: 12-17,125. Real property that has been approved for downtown redevelopment tax benefits pursuant to K.S.A. 2004 Supp. 12-17,124, and amendments thereto, shall be assessed and taxed for real property tax purposes pursuant to law in the same manner that such property would be assessed and taxed if it had not been approved for downtown redevelopment tax benefits. ~~All real property taxes assessed to the base year appraised value~~ *The tax increment generated by the improvement shall be credited to the fund created by a governing body of a city or an unincorporated area of a county for the purpose of returning all or part of the property tax increment to the taxpayer in the form of a rebate of 100% each year in years one through five, 80% in year six, 60% in year seven, 40% in year eight and 20% in year nine. No rebate shall be paid on or after the tenth year. Upon payment of taxes by the taxpayer, the rebate must be made within 30 days after the next distribution date as specified in K.S.A. 12-1678a, and amendments thereto.*

Sec. 7. K.S.A. 2004 Supp. 12-17,122 and 12-17,125 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 6, 2005.

Published in the *Kansas Register* April 14, 2005.
