

CHAPTER 27  
SENATE BILL No. 164\*

AN ACT concerning economic development; relating to qualified industrial manufacturers; prescribing certain transfers; establishing the special qualified industrial manufacturer fund.

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

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

Sec. 2. For the purposes of this act:

(a) "Agreement" means an agreement entered into between the qualified industrial 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 industrial manufacturer" means a person, corporation, partnership or other entity engaged in the manufacturing of hydraulics in Reno 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, and anticipates paying at least \$12,500,000 in annual gross compensation to employees located in Kansas and anticipates maintaining such operation for a period of at least ten years.

(d) "Secretary" means the secretary of commerce.

Sec. 3. (a) A qualified industrial manufacturer may be eligible for a period of no more than ten calendar years to receive an amount, not to exceed \$2,000,000 in the aggregate, from the special qualified industrial manufacturer fund.

(b) A qualified industrial 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 industrial manufacturer as defined in section 2, and amendments thereto, and (2) that the qualified industrial manufacturer agrees to make certain improvements to such manufacturer's plant located in Hutchinson, Kansas.

(c) Upon receipt of an application described in subsection (b), if the secretary finds that the application is from a qualified industrial manufacturer, the secretary may enter into an agreement with the qualified industrial manufacturer for benefits under this act. The agreement shall commit the secretary to request that for a period of no longer than ten years, at the discretion of the secretary, from the date of the executed agreement, an amount not to exceed \$2,000,000, from the special qualified industrial manufacturer fund created in subsection (d) and shall be transferred by the state treasurer to the qualified industrial 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 industrial manufacturer fund to the qualified industrial manufacturer. In the first three years of the agreement, 90% of the qualified industrial manufacturer's Kansas payroll withholding taxes shall be paid out. In the remaining seven years of the agreement, 40% of the qualified industrial manufacturer's Kansas payroll withholding taxes shall be paid out. In the event the qualified industrial manufacturer fails to comply with the terms and conditions set forth in the agreement, the agreement shall provide that the secretary may terminate the agreement, and the qualified industrial manufacturer shall not be entitled to further distributions from the special qualified industrial 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 industrial manufacturer, as certified by the secretary, to the special qualified industrial 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 industrial manufacturer fund interest earnings based on: (1) The average daily balance of moneys in the special qualified industrial 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 industrial manufacturer, have been distributed. Moneys credited to the special qualified industrial manufacturer fund in accordance with the foregoing provisions shall be distributed 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 \$2,000,000.

(e) A qualified industrial 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 industrial manufacturer from receiving credits allowed by law for any investment not related to the provisions of this act.

(f) The agreement between the qualified industrial manufacturer and the secretary shall be entered into before any benefits may be provided under this act, and shall specify that should the qualified industrial manufacturer fail to comply with the terms set forth in the agreement, the secretary may terminate the agreement, and the qualified industrial manufacturer shall not be entitled to further distributions from the special qualified industrial manufacturer fund.

(g) 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.

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 and tourism of the house of representatives and the joint committee on economic development, or any successor committee, a report, based upon information received from each qualified industrial 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 industrial 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 adopted by the department with respect to this act.

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

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

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

Approved March 22, 2007.

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