

74-50.212. Qualified company; eligibility requirements; benefits; retention incentives. (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. 2016 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. 2016 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. 2016 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. 2016 Supp. 74-50,214, and amendments thereto.

(e) Commencing January 1, 2013, and ending June 30, 2018, any company, which meets the criteria provided pursuant to the provisions of K.S.A. 2016 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. 2016 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 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 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.

History: L. 2009, ch. 104, § 3; L. 2010, ch. 144, § 4; L. 2011, ch. 115, § 11; L. 2014, ch. 136, § 1; July 1.