

SENATE BILL NO. 961

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR BECK.

4478S.01H

ADRIANE D. CROUSE, Secretary

AN ACT

To amend chapter 135, RSMo, by adding thereto one new section relating to a tax credit for certain live entertainment events, with an effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 135, RSMo, is amended by adding thereto
2 one new section, to be known as section 135.753, to read as
3 follows:

135.753. 1. This section shall be known and may be
2 cited as the "Entertainment Industry Jobs Act".

3 2. As used in this section, the following terms shall
4 mean:

5 (1) "Base investment", the aggregate funds actually
6 invested and expended by a Missouri taxpayer as a rehearsal
7 expense or tour expense pursuant to this section;

8 (2) "Concert", a ticketed live performance of music in
9 the physical presence of at least one thousand individuals
10 who view the performance live. For the purposes of this
11 subdivision, "ticketed" shall mean a concert where
12 individual tickets for attendance are offered for sale to
13 the public;

14 (3) "Concert tour equipment", stage, set, scenery,
15 design elements, automation, rigging, trusses, spotlights,
16 lighting, sound equipment, video equipment, special effects,
17 cases, communication devices, power distribution equipment,

18 backline and other miscellaneous equipment, or supplies used
19 during a concert or rehearsal;

20 (4) "Department", the Missouri department of economic
21 development;

22 (5) "Expense", any expense, expenditure, cost, charge,
23 or other disbursement or spending of funds;

24 (6) "Facility full-time equivalent employee", an
25 employee that is scheduled to work an average of at least
26 thirty-five hours per week and is located at the qualified
27 rehearsal facility, or a combination of two or more
28 employees that combined work an average of at least thirty-
29 five hours per week and are located at the qualified
30 rehearsal facility. An employee shall be considered to be
31 located at the facility if such employee spends fifty
32 percent or more of the employee's work time at the qualified
33 rehearsal facility or at a nearby facility serving the
34 qualified rehearsal facility, including a warehouse, located
35 in Missouri and owned by the same owner or operator, as
36 applicable, of the qualified rehearsal facility. An
37 employee that spends less than fifty percent of the
38 employee's work time at the qualified rehearsal facility or
39 nearby facility shall be considered to be located at a
40 qualified rehearsal facility if the employee receives his or
41 her directions and control from that facility and is on the
42 facility's payroll;

43 (7) "Minimum rehearsal and tour requirements", the
44 occurrence of all of the following during a rehearsal or
45 tour:

46 (a) The purchase or rental of concert tour equipment
47 in an amount of at least five hundred thousand dollars from
48 a Missouri vendor for use in the rehearsal, on the tour, or
49 both;

50 (b) A rehearsal at a qualified rehearsal facility for
51 a minimum of ten days; and

52 (c) The holding of a concert in at least one location
53 in the state of Missouri;

54 (8) "Missouri vendor", an individual or entity located
55 in and maintaining a place of business in this state. Only
56 transactions made through a Missouri location of a Missouri
57 vendor shall constitute a transaction with a Missouri vendor
58 for the purposes of this section;

59 (9) "Nonresident", the same meaning as defined
60 pursuant to section 143.101;

61 (10) "Pass-through entity", any incorporated or
62 unincorporated entity that has or elects pass-through
63 taxation under federal law, including, without limitation, a
64 partnership, S corporation, or unincorporated entity with or
65 that elects pass-through taxation;

66 (11) "Qualified rehearsal facility", a facility
67 primarily used for rehearsals located in this state and
68 which meets all of the following criteria:

69 (a) Has a minimum of twelve thousand five hundred
70 square feet of column-free, unobstructed floor space in each
71 studio used for rehearsals;

72 (b) Has had a minimum of eight million dollars
73 invested in the rehearsal facility in land or structure, or
74 a combination of land and structure;

75 (c) Has a permanent grid system with a capacity of a
76 minimum of five hundred thousand pounds in each studio used
77 for rehearsals;

78 (d) Has a height from floor to permanent grid of a
79 minimum of fifty feet in each studio used for rehearsals;

80 (e) Has at least one sliding or roll-up access door
81 with a minimum height of fourteen feet in each studio used
82 for rehearsals;

83 (f) Has a security system which includes twenty-four-
84 hour, seven-days-a-week security cameras and the use of
85 access control identification badges;

86 (g) Has a service area with production offices,
87 catering, and dressing rooms with a minimum of five thousand
88 square feet; and

89 (h) Is owned or operated by an entity that employs, on
90 average on an annual basis, at least eighty facility full-
91 time equivalent employees;

92 A qualified rehearsal facility shall not include a facility
93 at which concerts are regularly held;

94 (12) "Resident", the same meaning as defined pursuant
95 to section 143.101;

96 (13) "Rehearsal", an event or series of events which
97 occur in preparation for a tour prior to the start of the
98 tour or during a tour when additional preparation may be
99 needed;

100 (14) "Rehearsal expenses", includes all of the
101 following when incurred or when such expenses will be
102 incurred during a rehearsal:

103 (a) Total aggregate payroll;

104 (b) Payment to a personal service corporation
105 representing individual talent;

106 (c) Payment to a pass-through entity representing
107 individual talent;

108 (d) Expenses related to construction, operations,
109 editing, photography, staging, lighting, wardrobe, and
110 accessories;

- 111 (e) The leasing of vehicles from a Missouri vendor;
- 112 (f) The transportation of people or concert tour
113 equipment to or from a train station, bus depot, airport, or
114 other transportation facility, or from a residence or
115 business entity;
- 116 (g) Insurance coverage for an entire tour if the
117 insurance coverage is purchased or will be purchased through
118 an insurance agent that is a Missouri vendor;
- 119 (h) Food and lodging from a Missouri vendor;
- 120 (i) The purchase or rental of concert tour equipment
121 from a Missouri vendor;
- 122 (j) The rental of a qualified rehearsal facility; and
- 123 (k) Emergency or medical support services required to
124 conduct a rehearsal;
- 125 (15) "Total aggregate payroll", the total sum expended
126 on salaries paid to resident employees, regardless of
127 whether such resident is working within or outside of this
128 state, or nonresident employees working within this state in
129 one or more tours or rehearsals, including, without
130 limitation, payments to a loan-out company. For the purposes
131 of this subdivision:
- 132 (a) With respect to a single employee, the portion of
133 any salary which exceeds two million dollars in the
134 aggregate for a single tour shall not be included when
135 calculating total aggregate payroll; and
- 136 (b) All payments to a single employee and any legal
137 entity in which the employee has any direct or indirect
138 ownership interest shall be considered as having been paid
139 to the employee and shall be aggregated regardless of the
140 means of payment or distribution;
- 141 (16) "Tour", a series of concerts or other
142 performances performed or to be performed by a musical or

143 other live performer, including at least one rehearsal, in
144 one or more locations over multiple days;

145 (17) "Tour expenses", expenses incurred or which will
146 be incurred during a tour including venues located in this
147 state, including:

148 (a) Total aggregate payroll;

149 (b) The transportation of people or concert tour
150 equipment to or from a train station, bus depot, airport, or
151 other transportation facility, or from a residence or
152 business entity located in this state, or which is purchased
153 or will be purchased from a Missouri vendor;

154 (c) The leasing of vehicles provided by a Missouri
155 vendor;

156 (d) The purchasing or rental of facilities and
157 equipment from or through a Missouri vendor;

158 (e) Food and lodging which is incurred or will be
159 incurred from a facility located in this state;

160 (f) Marketing or advertising a tour at venues located
161 within this state;

162 (g) Merchandise which is purchased or will be
163 purchased from a Missouri vendor and used on the tour;

164 (h) Payments made or that will be made to a personal
165 service corporation representing individual talent if income
166 tax will be paid or accrued on the net income of the
167 corporation for the taxable year pursuant to chapter 143; and

168 (i) Payments made or that will be made to a pass-
169 through entity representing individual talent for which
170 withholding tax will be withheld by the pass-through entity
171 on the payment as required pursuant to chapter 143;

172 "Tour expenses" shall not include development expenses,
173 including the writing of music or lyrics, or any expenses
174 claimed by a taxpayer as rehearsal expenses.

175 3. (1) For all tax years beginning on or after
176 January 1, 2023, a taxpayer shall be allowed a tax credit
177 for rehearsal expenses and tour expenses incurred by the
178 taxpayer. The amount of the tax credit shall be equal to
179 thirty percent of the taxpayer's base investment, subject to
180 the limitations provided in subsection 6 of this section.
181 No tax credit shall be authorized for rehearsal expenses or
182 tour expenses related to a rehearsal or tour that does not
183 meet the minimum rehearsal and tour requirements.

184 (2) Tax credits issued pursuant to this section shall
185 not be refundable. Any amount of tax credit that exceeds
186 the tax liability for a taxpayer's tax year may be carried
187 forward to any of the taxpayer's five subsequent taxable
188 years, after which all remaining unredeemed tax credits
189 shall expire, regardless of whether such tax credits are
190 transferred or sold pursuant to subsection 5 of this section.

191 4. (1) In order to claim a tax credit pursuant to
192 this section, a taxpayer shall apply to the department on a
193 form to be provided by the department. Such application
194 shall include:

195 (a) A detailed list of qualifying activities,
196 rehearsal expenses, and tour expenses, including dates and
197 locations for all rehearsal and tour events;

198 (b) A detailed listing of the employee names, social
199 security numbers, and Missouri wages when salaries are
200 included in the base investment;

201 (c) Any other tax credits taken by the taxpayer
202 against Missouri income tax liabilities; and

203 (d) Any other information required by the department.

204 (2) For each year in which a taxpayer redeems a tax
205 credit claimed pursuant to this section, the taxpayer shall
206 include with his or her tax return the information required
207 by subdivision (1) of this section, as well as:

208 (a) The amount of tax credits being redeemed for the
209 current tax year;

210 (b) The amount of tax credits redeemed in prior tax
211 years; and

212 (c) The amount of unredeemed tax credits to be carried
213 over to subsequent tax years.

214 (3) Any taxpayer claiming, transferring, or selling a
215 tax credit pursuant to this section shall be required to
216 reimburse the department of revenue for any department-
217 initiated audits relating to the tax credit. This
218 subdivision shall not apply to routine tax audits of a
219 taxpayer which may include the review of the tax credit
220 authorized pursuant to this section.

221 5. (1) Tax credits authorized pursuant to this
222 section may be transferred or sold in whole or in part by
223 the taxpayer that claimed the tax credit, provided that the
224 tax credit is transferred or sold to another Missouri
225 taxpayer.

226 (2) A transferor may make one or more transfers or
227 sales of tax credits claimed in a taxable year, and such
228 transfers or sales may involve one or more transferees.

229 (3) A transferor shall submit to the department and to
230 the department of revenue a written notification of any
231 transfer or sale of tax credits within thirty days after the
232 transfer or sale of such tax credits. Such notification
233 shall include the amount of the transferor's unredeemed tax
234 credits prior to transfer, the tax credit identifying
235 certificate number or other relevant identifying

236 information, the remaining amount of unredeemed tax credits
237 after transfer, all tax identification numbers for each
238 transferee, the date of transfer, the amount transferred,
239 and any other information required by the department or the
240 department of revenue.

241 (4) A transferee shall not subsequently transfer or
242 sell any tax credit acquired from a transferor. A tax
243 credit that is transferred or sold shall not be redeemed by
244 a transferee for any tax year that is more than five years
245 after the initial date of issuance to the transferor,
246 regardless of when the tax credit was acquired by the
247 transferee.

248 (5) Tax credits shall not be transferred or sold for
249 less than sixty percent of the value of such tax credits.

250 (6) A taxpayer failing to comply with the provisions
251 of this subsection shall not be able to redeem a tax credit
252 until such taxpayer is in full compliance.

253 6. (1) The aggregate amount of tax credits that may
254 be authorized in a given fiscal year pursuant to this
255 section shall not exceed eight million dollars. If the
256 amount of tax credits applied for by taxpayers exceeds such
257 amount, the department may, at its discretion, authorize
258 additional tax credits in an amount not to exceed two
259 million dollars in such fiscal year, provided that the
260 maximum amount of tax credits that may be authorized during
261 the subsequent fiscal year shall be reduced by the amount of
262 additional tax credits that the department authorizes.

263 (2) Notwithstanding the provisions of subdivision (1)
264 of subsection 3 of this section to the contrary, the amount
265 of tax credits claimed by a taxpayer pursuant to this
266 section during a fiscal year shall not exceed the following
267 amounts:

268 (a) If a taxpayer's base investment is less than four
269 million dollars, the taxpayer shall not be awarded more than
270 one million dollars in tax credits;

271 (b) If a taxpayer's base investment is at least four
272 million dollars but less than eight million dollars, the
273 taxpayer shall not be awarded more than two million dollars
274 in tax credits; and

275 (c) If a taxpayer's base investment is at least eight
276 million dollars, the taxpayer shall not be awarded more than
277 three million dollars in tax credits.

278 7. The department shall promulgate such rules and
279 regulations as are necessary to implement and administer the
280 provisions of this section. Any rule or portion of a rule,
281 as that term is defined in section 536.010, that is created
282 under the authority delegated in this section shall become
283 effective only if it complies with and is subject to all of
284 the provisions of chapter 536 and, if applicable, section
285 536.028. This section and chapter 536 are nonseverable and
286 if any of the powers vested with the general assembly
287 pursuant to chapter 536 to review, to delay the effective
288 date, or to disapprove and annul a rule are subsequently
289 held unconstitutional, then the grant of rulemaking
290 authority and any rule proposed or adopted after August 28,
291 2022, shall be invalid and void.

292 8. Pursuant to section 23.253 of the Missouri Sunset
293 Act:

294 (1) The program authorized pursuant to this section
295 shall automatically sunset on December 31, 2029, unless
296 reauthorized by an act of the general assembly;

297 (2) If such program is reauthorized, the program
298 authorized pursuant to this section shall automatically

299 sunset on December thirty-first, twelve years after the
300 effective date of the reauthorization;

301 (3) This section shall terminate on September first of
302 the calendar year immediately following the calendar year in
303 which the program authorized pursuant to this section is
304 sunset; and

305 (4) The provisions of this subsection shall not be
306 construed to limit or in any way impair the department's
307 ability to redeem tax credits authorized on or before the
308 date the program authorized pursuant to this section
309 expires, or a taxpayer's ability to redeem such tax credits.

Section B. Section A of this act shall become
2 effective July 1, 2023.

✓