

ECONOMIC DEVELOPMENT AUTHORITY[261]

Adopted and Filed

Rule making related to high quality jobs program wage threshold

The Economic Development Authority hereby amends Chapter 174, “Wage, Benefit, and Investment Requirements,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 15.106A.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, Senate File 2325.

Purpose and Summary

2022 Iowa Acts, Senate File 2325, amends Iowa Code section 15.335C relating to the High Quality Jobs Program. The section states that a business with a project in an economically distressed area shall be required to pay 100 percent of the qualifying wage threshold, while businesses with projects in most other areas must pay 120 percent of the qualifying wage threshold. The legislation updates the criteria by which counties are designated as economically distressed areas. The amended Iowa Code section also allows the Authority Board to designate, at the request of a city or county, additional counties as economically distressed if a business located in the county experiences a layoff or a closure that has a significant impact on a community within the county.

These amendments update Chapter 174 to reflect the changes made to Iowa Code section 15.335C and remove information about requirements for repealed programs.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 24, 2022, as **ARC 6471C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Authority Board on October 21, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or

group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on December 21, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 174.2(4) as follows:

174.2(4) *Effective date and applicability.* The laborshed-based qualifying wage thresholds ~~adopted in 2012 Iowa Acts, House File 2473, are~~ were effective beginning on July 1, 2012, and the authority will apply the provisions of this rule to all qualifying wage threshold calculations made or updated on or after that date.

ITEM 2. Amend rule 261—174.3(15) as follows:

261—174.3(15) *Qualifying wage threshold requirements—prior to July 1, 2009.* 2009 Iowa Acts, Senate File 344, became effective on July 1, 2009. 2009 Iowa Acts, Senate File 344, repealed a number of programs administered by the department, established IVF(2009), and transferred moneys from prior programs to the IVF(2009). This resulted in a simplification of state financial assistance programs. The following subrules regarding qualifying wage thresholds apply to awards made on or before June 30, 2009. This rule shall apply to the prior programs and funding sources until such time as the contracts for these prior programs are closed by the ~~department~~ authority.

<u>Tax Credit Program</u>	<u>Wage Threshold Requirement</u>	<u>Can benefits value be added to the hourly wage to meet the wage threshold?</u>
<u>EZ</u>	<u>90% of average county wage or average regional wage, whichever is lower</u>	<u>No</u>
<u>HQJC</u>	<u>130% of average county wage</u> <u>More benefits are available if the wage rate is 160% or higher</u>	<u>Yes</u>

174.3(1) *Qualifying wage threshold requirement—projects receiving IVF(FES) assistance.* Awards funded during the time period beginning July 1, 2003, but before June 16, 2004, from IVF(FES) shall meet the wage requirements in effect at that time as reflected in the contract between the department and the business. Awards funded after June 16, 2004, using IVF(FES) moneys shall meet the qualifying wage thresholds for the programs through which funding is sought.

174.3(2) *Qualifying wage threshold requirement—projects receiving IVF (2005) assistance.* In order to receive financial assistance from the IVF (2005), applicants shall demonstrate that the annual wage, including benefits, of project jobs is at least 130 percent of the average county wage. If an applicant is applying for IVF (2005) moneys, the department will first review the application to ensure that the IVF (2005) wage requirement is met. The department will then review the application for compliance with the requirements of the department program from which financial assistance is to be provided.

174.3(3) *Qualifying wage threshold requirement—projects funded by program funds (“old money”).* Prior to July 1, 2003, direct financial assistance programs administered by the department were funded through state appropriations. After the creation of IVF(FES) and IVF (2005), these programs no longer received separate state appropriations. These programs were funded with IVF(FES) and IVF (2005) moneys. Moneys remaining, recaptured or repaid to these program funds remain available for awarding to projects. The department will review an application for compliance with the requirements of the department program from which financial assistance is to be provided.

174.3(4) ~~Qualifying wage threshold requirement—projects receiving EDSA funds.~~ EDSA is the job creation component of the federal CDBG program. The department will review an application for compliance with the federal CDBG EDSA requirements.

174.3(5) ~~Qualifying wage thresholds, by funding source and by program.~~

a. ~~IVF (2005).~~ Projects that are funded with IVF (2005) moneys through the following programs shall meet the qualifying wage threshold listed below:

Funding Source: <u>IVF (2005)</u>		Qualifying Wage Threshold Requirement	Can benefits value be added to the hourly wage to meet the qualifying wage threshold?
CEBA:	Small business gap financing component	130% of average county wage	Yes
	New business opportunities and new product development components	130% of average county wage	Yes
	Venture project component	130% of average county wage	Yes
	Modernization project component	130% of average county wage	Yes
VAAPFAP		130% of average county wage	Yes
PIAP		130% of average county wage, unless funded through special allocation of PIAP funds, up to \$5 million, established in subrule 61.5(12)	Yes
EVA		130% of average county wage	Yes

~~b. *IVF(FES) and program funds.* Projects that are funded with IVF(FES) through the following programs or directly from available program fund moneys shall meet the qualifying wage thresholds listed below:~~

Funding Source: <u>IVF(FES) or Program Funds</u>		Qualifying Wage Threshold Requirement	Can benefits value be added to the hourly wage to meet the qualifying wage threshold?
CEBA:	Small business gap financing component	100% of average county wage or average regional wage, whichever is lower 130% for awards over \$500,000	No
	New business opportunities and new product development components	100% of average county wage or average regional wage, whichever is lower 130% for awards over \$500,000	No
	Venture project component	100% of average county wage or average regional wage, whichever is lower	No
	Modernization project component	100% of average county wage or average regional wage, whichever is lower 130% for awards over \$500,000	No
VAAPFAP		No statutory requirement	Not applicable
PIAP		No statutory requirement	Not applicable
EVA		No statutory requirement	Not applicable

~~c. *EDSA.* Rescinded IAB 6/24/15, effective 7/29/15.~~

~~d. *EZ and HQJC.* Tax credit program projects shall meet the following wage thresholds:~~

Tax Credit Program	Wage Threshold Requirement	Can benefits value be added to the hourly wage to meet the wage threshold?
EZ	90% of average county wage or average regional wage, whichever is lower	No
HQJC	130% of average county wage More benefits are available if the wage rate is 160% or higher	Yes

ITEM 3. Rescind subrule **174.5(1)**.

ITEM 4. Renumber subrule **174.5(2)** as **174.5(1)**.

ITEM 5. Renumber subrule **174.5(4)** as **174.5(2)**.

ITEM 6. Amend rule 261—174.6(15) as follows:

261—174.6(15) Qualifying wage threshold requirements—effective on or after July 1, 2014. 2014 Iowa Acts, House File 2448, (“the Act”) became effective on July 1, 2014. Among other things, the Act

~~changed the qualifying wage thresholds applicable to HQJP and repealed the EZ program.~~ As of July 1, 2014, the qualifying wage thresholds described in this rule shall be in effect.

174.6(1) *Enterprise zone (EZ) program.* The qualifying wage threshold requirement applicable to the EZ program is 90 percent of the laborshed wage. The wage threshold described in this subrule continues to apply to agreements entered into before July 1, 2014. However, no new agreements may be entered into on or after July 1, 2014.

174.6(2) *High quality jobs program (HQJP).* The qualifying wage threshold requirement applicable to HQJP is 120 percent of the laborshed wage unless subrule 174.6(3) or 174.6(4) applies to a project.

174.6(3) *HQJP projects in distressed areas.*

a. Notwithstanding subrule 174.6(2), the qualifying wage threshold requirement applicable to an HQJP project may be lowered to 100 percent of the laborshed wage if the eligible business is located in an economically distressed area.

b. For purposes of this subrule, “economically distressed area” means a county that ~~ranks among the bottom 33 of all Iowa counties, as measured by either the average monthly unemployment level for the most recent 12-month period or the average annualized unemployment level for the most recent five-year period.~~ meets at least three of the following criteria:

(1) The county ranks among the 33 Iowa counties with the highest average monthly unemployment rates for the most recent 12-month period based on the applicable local area unemployment statistics produced by the United States Department of Labor, Bureau of Labor Statistics.

(2) The county ranks among the 33 Iowa counties with the highest average annualized unemployment rates for the most recent five-year period based on the applicable local area unemployment statistics produced by the United States Department of Labor, Bureau of Labor Statistics.

(3) The county ranks among the 33 Iowa counties with the lowest annual average weekly wages based on the most recent quarterly census of employment and wages published by the United States Department of Labor, Bureau of Labor Statistics.

(4) The county ranks among the 33 Iowa counties with the highest family poverty rates based on the most recent American Community Survey five-year estimate released by the United States Census Bureau.

(5) The county ranks among the 33 Iowa counties with the highest percentage population loss. Percentage population loss shall be calculated by comparing the most recent population estimate produced by the United States Census Bureau to the most recent decennial census released by the United States Census Bureau, except for a calendar year in which the decennial census data is released, in which case the percentage population loss shall be calculated by comparing the population in the decennial census released that calendar year to the population in decennial census released ten years prior.

(6) The county ranks among the 33 Iowa counties with the highest percentage of persons 65 years of age or older based on the most recent American Community Survey five-year estimate released by the United States Census Bureau.

c. The authority may designate a county that does not meet at least three of the criteria in paragraph 174.6(3) “b” as an economically distressed area if a business located in the county experiences a layoff or a closure that has a significant impact on a community within the county.

(1) Factors the authority will consider in determining whether a layoff or closure has a significant impact on a community within the county include, but are not limited to, total number of employees impacted, percentage of the applicable laborshed impacted, number of employees impacted as a percentage of population, current unemployment rate, and unemployment rate including the employees affected by a layoff or closure.

(2) A city or county shall request designation of a county as an economically distressed area pursuant to this paragraph in writing. Such requests are subject to approval by the board. Requests may be made simultaneously with a project application that would qualify for a lower qualifying wage threshold requirement pursuant to this subrule if the request is approved.

~~*e. d.*~~ The authority will update the list of economically distressed areas, including those designated pursuant to paragraph 174.6(3) “c,” according to the same schedule as the qualifying wage thresholds

are updated pursuant to subrule 174.2(1) and will apply the provisions of subrule 174.2(2) to the list of economically distressed areas in the same manner.

174.6(4) and 174.6(5) No change.

ITEM 7. Amend rule 261—174.8(15) as follows:

261—174.8(15) Benefit requirements—prior to July 1, 2009. This rule regarding benefit requirements applies to awards made on or before June 30, 2009. This rule shall apply to the prior programs and funding sources until such time as the contracts for these prior programs are closed by the department.

Program	Benefit Requirement	Deductible Requirements	Is a monetary equivalent to benefits allowed?	Benefits Counted Toward Monetary Equivalent
EZ	80% medical and dental coverage, single coverage only OR the monetary equivalent	\$750 maximum for single coverage/ \$1500 maximum for family coverage	Yes	-Medical coverage (family portion) -Dental coverage (family portion) -Pension/401(k) (company's average contribution) -Profit-sharing plan -Life insurance -Short-/long-term disability insurance -Vision insurance -Child care
HQJC	No benefit requirement (If, however, the company does not provide 80% medical and dental coverage for a single employee, the award will be reduced by 10%.)	\$750 maximum for single coverage/ \$1500 maximum for family coverage	No (Providing 80% medical and dental coverage for a single employee is one of eight qualifying criteria the company may use to qualify for the program. Monetary equivalent of other benefits is not considered.)	Not applicable
CEBA	80% medical and dental for single employees OR 50% medical and dental for family coverage OR the monetary equivalent	\$750 maximum for single coverage/ \$1500 maximum for family coverage	Yes	-Medical coverage (family portion) -Dental coverage (family portion) -Pension/401(k) (company's average contribution) -Profit-sharing plan -Life insurance -Short-/long-term disability insurance -Vision insurance -Child care -Other documented benefits offered to all employees (i.e., uniforms, tuition reimbursement, etc.)
VAAPFAP	Not applicable	Not applicable	Not applicable	Not applicable
PIAP	Not applicable	Not applicable	Not applicable	Not applicable
EVA	Not applicable	Not applicable	Not applicable	Not applicable
TSBFAP	Not applicable	Not applicable	Not applicable	Not applicable

ITEM 8. Amend rule 261—174.9(15) as follows:

261—174.9(15) Sufficient benefits requirement—on or after July 1, 2009.

174.9(1) Requirement. To be eligible to receive state financial assistance, project completion assistance, or tax incentives, applicants shall offer sufficient benefits to each FTE permanent position. The term “sufficient benefits” is defined in rule 261—173.2(15). ~~The board may consider alternative benefits packages or may adjust the requirement described in this rule~~ applicable sufficient benefits requirement shall be periodically approved by the board to reflect the most current benefits package typically offered by employers.

174.9(2) Options. ~~An employer meeting one of the following options will be found to meet the sufficient benefits requirement:~~

Option 1 80% Single Coverage	Option 2 50% Family Coverage	Option 3 Monetary Equivalent
Pay 80% of premium costs for a standard medical and dental plan, single coverage. \$750 maximum deductible	Pay 50% of premium costs for a standard medical and dental plan, family coverage. \$1,500 maximum deductible	Provide medical and pay the monetary equivalent of Option 1 or Option 2 in supplemental employee benefits. Benefits Counted Toward Monetary Equivalent <ul style="list-style-type: none"> • Medical coverage • Dental coverage • Vision insurance • Life insurance • Pension • 401(k) (company's average contribution) • Short-/long-term disability insurance • Child care services • Other nonwage compensation

ITEM 9. Amend **261—Chapter 174**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 15 and 15E and ~~2011 Iowa Code Supplement chapter 15G, subchapter I.~~

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/16/22.