

**403.19A Targeted jobs withholding credit — pilot project.**

1. For purposes of this section, unless the context otherwise requires:

a. “*Business*” means an enterprise that is located in this state and that is operated for profit and under a single management. “*Business*” includes professional services and industrial enterprises, including but not limited to medical treatment facilities, manufacturing facilities, corporate headquarters, and research facilities. “*Business*” does not include a retail operation, a government entity, or a business which closes or substantially reduces its operation in one area of this state and relocates substantially the same operation to another area of this state.

b. “*Employee*” means the individual employed in a targeted job that is subject to a withholding agreement.

c. “*Employer*” means a business creating or retaining targeted jobs in a pilot project city pursuant to a withholding agreement.

d. “*Pilot project city*” means a city that has applied and been approved as a pilot project city pursuant to subsection 2.

e. “*Qualifying investment*” means a capital investment in real property including the purchase price of land and existing buildings, site preparation, building construction, and long-term lease costs. “*Qualifying investment*” also means a capital investment in depreciable assets. For purposes of this paragraph, “*long-term lease costs*” means those costs incurred or expected to be incurred under a lease during the duration of a withholding agreement.

f. “*Retained job*” means a full-time equivalent position in existence at the time an employer applies to the authority for approval of a withholding agreement and which remains continuously filled and which is at risk of elimination if the project for which the employer is seeking assistance under the withholding agreement does not proceed.

g. “*Targeted job*” means a job in a business which is or will be located in a pilot project city that pays a wage at least equal to the countywide average wage. “*Targeted job*” includes new or retained jobs from Iowa business expansions or retentions within the city limits of the pilot project city and those jobs resulting from established out-of-state businesses, as defined by the economic development authority, moving to or expanding in Iowa.

h. “*Withholding agreement*” means the agreement between a pilot project city, the economic development authority, and an employer concerning the targeted jobs withholding credit authorized in subsection 3.

2. a. An eligible city may apply for designation as a pilot project city pursuant to this subsection. An eligible city is a city that contains three or more census tracts and is located in a county meeting one of the following requirements:

- (1) A county that borders Nebraska.
- (2) A county that borders South Dakota.
- (3) A county that borders a state other than Nebraska or South Dakota.

b. (1) The department of economic development shall approve four eligible cities as pilot project cities, one pursuant to paragraph “a”, subparagraph (1), one pursuant to paragraph “a”, subparagraph (2), and two pursuant to paragraph “a”, subparagraph (3). If two eligible cities are approved which are located in the same county and the county has a population of less than forty-five thousand, the two approved eligible cities shall be considered one pilot project city. If more than two cities meeting the requirements of paragraph “a”, subparagraph (3), apply to be designated as a pilot project city, the department of economic development shall determine which two cities hold the most potential to create new jobs or generate the greatest capital within their areas. Applications from eligible cities filed on or after October 1, 2006, shall not be considered.

(2) If a pilot project city does not enter into a withholding agreement within one year of its approval as a pilot project city, the city shall lose its status as a pilot project city. If two pilot project cities are located in the same county, the loss of status by one pilot project city shall not cause the second pilot project city in the county to lose its status as a pilot project city. Upon such occurrence, the department of economic development shall take applications from other eligible cities to replace that city. Another city shall be designated within six months.

(3) On July 1, 2011, the economic development authority shall assume responsibility for the administration of this subsection.

3. a. A pilot project city may provide by resolution for the deposit into a designated withholding project fund of the targeted jobs withholding credit described in this section. The targeted jobs withholding credit shall be based upon the wages paid to employees pursuant to a withholding agreement.

b. An amount equal to three percent of the gross wages paid by an employer to each employee under a withholding agreement shall be credited from the payment made by the employer pursuant to section 422.16. If the amount of the withholding by the employer is less than three percent of the gross wages paid to the employees covered by the withholding agreement, the employer shall receive a credit against other withholding taxes due by the employer or may carry the credit forward for up to ten years or until depleted, whichever is the earlier. The employer shall remit the amount of the credit quarterly, in the same manner as withholding payments are reported to the department of revenue, to the pilot project city to be allocated to and when collected paid into a designated withholding project fund for the project. All amounts so deposited shall be used or pledged by the pilot project city for a project related to the employer pursuant to the withholding agreement.

c. (1) The pilot project city and the economic development authority shall enter into a withholding agreement with each employer concerning the targeted jobs withholding credit. The withholding agreement shall provide for the total amount of withholding credits awarded, as negotiated by the economic development authority, the pilot project city, and the employer. An agreement shall not provide for an amount of withholding credits that exceeds the amount of the qualifying investment made in the project. An agreement shall not be entered into with a business currently located in this state unless the business either creates or retains ten jobs or makes a qualifying investment of at least five hundred thousand dollars within the pilot project city. The withholding agreement may have a term of years negotiated by the economic development authority, the pilot project city, and the employer, of up to ten years. A withholding agreement specifying a term of years or a total amount of withholding credits shall terminate upon the expiration of the term of years specified in the agreement or upon the award of the total amount of withholding credits specified in the agreement, whichever occurs first. An employer shall not be obligated to enter into a withholding agreement. An agreement shall not be entered into with an employer not already located in a pilot project city when another Iowa community is competing for the same project and both the pilot project city and the other Iowa community are seeking assistance from the authority.

(2) The pilot project city and the economic development authority shall not enter into a withholding agreement after June 30, 2018.

(3) The employer, in conjunction with the pilot project city, shall provide on an annual basis to the economic development authority information documenting the total amount of payments and receipts under a withholding agreement, including all agreements with an employer to suspend, abate, exempt, rebate, refund, or reimburse property taxes, to provide a grant for property taxes paid or a grant not related to property taxes, or to make a direct payment of taxes, with moneys in the withholding project fund. The economic development authority shall verify the information provided and determine whether the pilot project city and the employer are in compliance with this section and the rules adopted by the economic development authority to implement this section.

(4) The economic development authority board, on behalf of the authority, shall have the authority to approve or deny a withholding agreement according to the provisions of this section. Each withholding agreement, and the total amount of withholding credits allowed under the withholding agreement, shall be approved by the economic development authority board after taking into account the incentives or assistance received by or to be received by the employer under other economic development programs. The economic development authority board shall only deny an agreement if the agreement fails to meet the requirements of this paragraph "c" or the local match requirements in paragraph "k", or if an employer is not in good standing as to prior or existing agreements with the economic development authority. The authority shall have the authority to negotiate a withholding agreement and may suggest changes to any of the terms of the agreement.

d. A withholding agreement shall be disclosed to the public and shall contain but is not limited to all of the following:

(1) A copy of the adopted local development agreement between the pilot project city and the employer that outlines local incentives or assistance for the project using urban renewal or urban revitalization incentives, if applicable.

(2) A list of any other amounts of incentives or assistance the employer may be receiving from other economic development programs, including grants, loans, forgivable loans, and tax credits.

(3) The approval of local participating authorities.

(4) The amount of local incentives or assistance received for each project of the employer.

e. (1) The employer shall certify to the department of revenue that the targeted jobs withholding credit is in accordance with the withholding agreement and shall provide other information the department may require. Notice of any withholding agreement shall be provided promptly to the department of revenue following execution of the agreement by the pilot project city and the employer.

(2) Following termination of the withholding agreement, the employer credits shall cease and any money received by the pilot project city after termination shall be remitted to the treasurer of state to be deposited into the general fund of the state. Notice shall be provided promptly to the department of revenue following termination.

f. Pursuant to rules adopted by the economic development authority, the pilot project city shall provide on an annual basis to the economic development authority information documenting the compliance of each employer with each requirement of the withholding agreement, including but not limited to the number of jobs created or retained and the amount of investment made by the employer. The economic development authority shall, in response to receiving such information from the pilot project city, assess the level of compliance by each employer and provide to the pilot project city recommendations for either maintaining employer compliance with the withholding agreement or terminating the agreement for noncompliance under paragraph "g". The economic development authority shall also provide each such assessment and recommendation report to the department of revenue.

g. If the economic development authority, following an eighteen-month performance period beginning on the date the withholding agreement is approved by the authority board, determines that the employer ceases to meet the requirements of the withholding agreement relating to retaining jobs, if applicable, the agreement shall be terminated by the economic development authority and the pilot project city and any withholding credits for the benefit of the employer shall cease. If the economic development authority, following a three-year performance period beginning on the date the withholding agreement is approved by the authority board, determines that the employer has not or is incapable of meeting the requirements of the withholding agreement relating to creating jobs, if applicable, or the requirement of the withholding agreement relating to the qualifying investment prior to the end of the withholding agreement, the economic development authority may reduce the future benefits to the employer under the agreement or negotiate with the other parties to terminate the agreement early. Notice shall be provided promptly by the pilot project city to the department of revenue following termination of a withholding agreement.

h. A pilot project city shall certify to the department of revenue the amount of the targeted jobs withholding credit an employer has remitted to the city and shall provide other information the department may require.

i. An employee whose wages are subject to a withholding agreement shall receive full credit for the amount withheld as provided in section 422.16.

j. An employer may participate in a new jobs credit from withholding under section 260E.5, or a supplemental new jobs credit from withholding under section 15E.197 or under section 15.331, Code 2005, at the same time as the employer is participating in the withholding credit under this section. Notwithstanding any other provision in this section, the new jobs credit from withholding under section 260E.5, and the supplemental new jobs credit from withholding under section 15E.197 or under section 15.331, Code 2005, shall be collected and disbursed prior to the withholding credit under this section.

k. (1) A pilot project city entering into a withholding agreement shall arrange for matching local financial support for the project. The local match required under this

paragraph “k” shall be in an amount equal to one dollar for every dollar of withholding credit received by the pilot project city.

(2) For purposes of this paragraph “k”, “local financial support” means cash or in-kind contributions to the project from a private donor, a business, or the pilot project city.

(3) If the project, when completed, will increase the amount of an employer’s taxable capital investment by an amount equal to at least ten percent of the amount of withholding credit dollars received by the pilot project city, then the pilot project city shall itself contribute at least ten percent of the local match amount computed under subparagraph (1).

(4) If the project, when completed, will not increase the amount of an employer’s taxable capital investment by an amount at least equal to ten percent of the amount of withholding credit dollars received by the pilot project city, then the pilot project city shall not be required to make a contribution to the local match.

(5) A pilot project city’s contribution, if any, to the local match may include the dollar value of any tax abatement provided by the city to the business for new construction.

l. At the time of submitting its budget to the department of management, the pilot project city shall submit to the department of management and the economic development authority a description of the activities involving the use of withholding agreements. The description shall include but is not limited to the following:

(1) The total number of targeted jobs and a breakdown as to those that are Iowa business expansions or retentions within the city limits of the pilot project city and those that are jobs resulting from established out-of-state businesses moving to or expanding in Iowa.

(2) The number of withholding agreements and the amount of withholding credits involved.

(3) The types of businesses that entered into agreements, and the types of businesses that declined the city’s proposal to enter into an agreement.

m. The economic development authority in consultation with the department of revenue shall coordinate the pilot project program with the pilot project cities under this section. The economic development authority is authorized to adopt, amend, and repeal rules to implement the pilot project program under this section.

2006 Acts, ch 1141, §1; 2007 Acts, ch 2, §1, 2; 2007 Acts, ch 126, §63; 2008 Acts, ch 1122, §15; 2009 Acts, ch 103, §1, 2; 2011 Acts, ch 25, §37, 38; 2011 Acts, ch 118, §81, 85, 89; 2011 Acts, ch 131, §126 – 129; 2012 Acts, ch 1018, §1; 2013 Acts, ch 111, §1 – 6

Referred to in §2.48

[SP] Amendments by 2011 Acts, ch 131, §126 – 128 take effect July 27, 2011, and apply retroactively to July 1, 2006, for agreements entered into on or after that date; 2011 Acts, ch 131, §129

[SP] 2013 amendments to subsection 1 and subsection 3, paragraphs a, b, c, and g, take effect July 1, 2013, and apply to withholding agreements entered into on or after July 1, 2013; subsection 3, paragraph f, takes effect July 1, 2013, and applies to withholding agreements entered into prior to, on, or after July 1, 2013; 2013 Acts, ch 111, §6

[T] Subsection 1, paragraphs c and e amended

[T] Subsection 1, NEW paragraph f and former paragraphs f and g amended and redesignated as g and h

[T] Subsection 3, paragraphs a – c amended

[T] Subsection 3, paragraph d, subparagraph (1) amended

[T] Subsection 3, NEW paragraph f and former paragraph f amended and redesignated as g

[T] Subsection 3, former paragraphs g – l redesignated as h – m