

261—71.4(403) Withholding agreements.

71.4(1) *Designated account.* An approved pilot project city may provide by city resolution for the deposit of funds generated through withholding agreements into a designated withholding project fund under the targeted jobs withholding tax credit program.

71.4(2) *Entering into a withholding agreement.*

a. Agreement between a pilot project city, the authority, and a business. The authority and a pilot project city may enter into a withholding agreement with a business locating to the community from another state that is creating or retaining targeted jobs in a pilot project city. The authority and a pilot project city may enter into a withholding agreement with a business currently located in Iowa only if the business is creating or retaining at least ten jobs or making a qualifying investment of at least \$500,000 within the pilot project city.

b. Total amount of withholding tax credits. The withholding agreement shall provide for the total amount of withholding tax 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 tax credits that exceeds the amount of qualifying investment made in the project.

c. Ineligibility if there is competition between pilot project city and non-pilot project city. A withholding 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.

d. Option of a business to enter into withholding agreement. A business shall not be obligated to enter into a withholding agreement with a pilot project city and the authority.

e. Board approval of withholding agreements. Prior to entering into a withholding agreement with a business, a pilot project city shall request board approval of the withholding agreement. The process for requesting approval from the board is described in subrule 71.5(1).

71.4(3) *Required components of a withholding agreement.* A withholding agreement shall be disclosed to the public and shall contain all of the following:

a. A copy of the adopted local development agreement between the pilot project city and employer that outlines local incentives or assistance for the project using urban renewal or urban revitalization incentives, if applicable, and how withholding funds generated by the city will be used.

b. A list of all other incentives or financial assistance the business has requested or is receiving from other federal, state, or local economic development programs including loans, grants, forgivable loans, and tax credits.

c. The amount of assistance provided by the pilot project city for the project.

d. Documentation of the approval of the project by local participating authorities.

e. The total amount of withholding tax credits awarded.

f. The total number of created and retained jobs included in the project.

g. The required countywide average wage.

h. The total qualifying investment included in the project.

i. The total required matching local financial support for the project.

71.4(4) *Length of withholding agreements.* A withholding agreement may have a term of up to ten years, as negotiated by the authority, the pilot project city, and the employer. A withholding agreement specifying a term of years or a total amount of withholding credits shall either 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.

71.4(5) *Withholding generated through the program.*

a. Once a pilot project city, the authority, and an employer have entered into a withholding agreement, an amount equal to 3 percent of the gross wages paid by the business to each employee under a withholding agreement shall be credited from the payment made by the employer pursuant to Iowa Code section 422.16. If the amount of withholding by the employer is less than 3 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 occurs first.

b. The employer shall submit the amount of the credit quarterly, in the same manner as withholding payments are made to the department of revenue, to the pilot project city.

c. An employee whose wages are subject to a withholding agreement shall receive full credit for the amount withheld under the targeted jobs withholding tax credit program as provided in Iowa Code section 422.16.

71.4(6) Use of withholding funds. A pilot project city shall allocate the withholding funds into a designated withholding project fund for the project. All funds deposited shall be used or pledged by the pilot project city for a project related to the employer pursuant to the withholding agreement.

71.4(7) Local match requirement. The intent of the program is to require a pilot project city to contribute to projects that result in an increase in the city's tax collections. If a pilot project city realizes an increase in tax revenues due to the project, then the pilot project city is required to contribute at least 10 percent of the required local match. For example, if a project includes the purchase and remodeling of a building that results in increased tax collections to the pilot project city by an amount equal to 10 percent of the total amount of the withholding tax credit award, then the pilot project city is required to contribute at least 10 percent of the required local match for the project. In cases in which a project would include the purchase of a building but there is no increase in tax collections to the pilot project city, the pilot project city is not required to contribute to the required local match.

a. A pilot project city entering into a withholding agreement shall arrange for matching local financial support for the project. The local match required shall be in an amount equal to one dollar for every one dollar of withholding tax credit received by the pilot project city.

b. If the project, when completed, will increase the amount of an employer's taxable capital investment by an amount equal to at least 10 percent of the amount of withholding tax credit dollars received by the pilot project city, then the pilot project city shall itself contribute at least 10 percent of the local match amount computed under paragraph "a."

c. If the project, when completed, will not increase the amount of the employer's taxable capital investment by an amount equal to at least 10 percent of the amount of withholding tax 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.

d. A pilot project city's contribution, if any, to the local match may include the dollar value of any new tax abatement provided by the city to the business for new construction. For purposes of this paragraph, new construction includes building additions, remodeling, renovations, and updates.

71.4(8) Termination of a withholding agreement. Following the termination of a withholding agreement, the employer credits shall cease and any funds received by the pilot project city after the agreement has been terminated shall be remitted to the state treasurer to be deposited in the general fund of the state. The pilot project city shall notify the department of revenue within 30 days of the termination of the withholding agreement. If the authority, following an 18-month performance period beginning on the date the withholding agreement is approved by the board, determines that the employer does not meet the requirements of the withholding agreement relating to retaining jobs, if applicable, the agreement shall be terminated by the authority and the pilot project city and any withholding credits for the employer shall cease. If the authority, following a three-year performance period beginning on the date the withholding agreement is approved by the board, determines that the employer has not met 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 authority may reduce the future benefits to the employer under the agreement or negotiate with the other parties to terminate the agreement early.

71.4(9) Participation in other programs. An employer may participate in the Iowa industrial new jobs training program under Iowa Code section 260E.5 or may claim a supplemental withholding credit under Iowa Code section 15E.197, at the same time the employer is participating in the targeted jobs withholding tax credit program. The withholding credit under section 260E.5 and the supplemental

withholding credit under section 15E.197 shall be collected and disbursed prior to the collection and disbursement of the withholding credit under the targeted jobs withholding tax credit program.

[**ARC 7561B**, IAB 2/11/09, effective 3/18/09 (See Delay note at end of chapter); **ARC 7847B**, IAB 6/17/09, effective 5/21/09; **ARC 7848B**, IAB 6/17/09, effective 7/1/09; **ARC 8147B**, IAB 9/23/09, effective 10/28/09; **ARC 1373C**, IAB 3/19/14, effective 2/24/14; **ARC 4512C**, IAB 6/19/19, effective 7/24/19; **ARC 4990C**, IAB 3/11/20, effective 4/15/20]