Legislative Services Agency

FINAL REPORT

Targeted Jobs Withholding Tax Credit Study Committee

January 2006

MEMBERS

Senator Thomas Courtney, Co-chairperson
Senator Ron Wieck, Co-chairperson
Senator Gene Fraise
Senator Mark Zieman

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AUTHORIZATION AND APPOINTMENT

The Targeted Jobs Withholding Tax Credit Study Committee was established by the Legislative Council and charged to "meet in Sioux City to discuss a proposal for a pilot project for a targeted jobs withholding tax credit."

I. Committee Proceedings.

The Committee was authorized to meet two days in Sioux City during the 2005 Interim. The Committee met on Tuesday, October 25, 2005, and Wednesday, October 26, 2005.

II. October 25 and 26 Meetings.

Premeeting. Members and staff were hosted by area representatives to an organic breakfast located in a farmers market that caters to organic produce. Afterwards, members and staff toured the local tri-state area. The tour visited specific development areas in South Sioux City, Nebraska; Dakota Dunes and North Sioux City, South Dakota; as well as Sioux City.

Explanation of Proposal. Mr. Mike Goedert of the Legislative Services Agency, Legal Services Division, explained the proposed targeted jobs withholding tax credit pilot project legislation. Sioux City and Council Bluffs are designated as the pilot project cities. These cities may enter into agreements with a business to receive a withholding tax credit for each targeted job located in that city's urban renewal area. An urban renewal area is an area that has been declared by the city as a slum, blighted, or economic development area. A targeted job is a job that is located in the urban renewal area, pays a wage of at least 100 percent of the countywide average wage, and did not formerly exist in the business in the state except if the relocation is related to an expansion which will create a significant number of new jobs or the business, in good faith, intends to move outside of the state. However, the exceptions only apply if at least 10 new jobs are created or at least $500,000 in investment in the urban renewal area is made by the business. The tax credit is equal to 3 percent of the gross wages paid to the employee of the targeted job and is used to offset the amount of state income tax withholding that the business would otherwise pay to the state. The tax credit amount is transferred from the business to the city to be used by the city for an urban renewal project related to the business. The agreement is for 10 years with the ability to extend the agreement another 10 years.

Mr. John Meyers, Finance Director, Sioux City. Mr. Meyers stated that Sioux City seeks additional flexibility to strengthen its economy. The state's present incentives and the work done by the city's officials have helped, but Nebraska's latest business incentives in LB 775 and South Dakota's lack of income tax have made it difficult for Sioux City to be more successful, especially with larger industrial and professional arts projects. Mr. Meyers stated that the proposed legislation would provide a more helpful tool for seeking these larger industrial and professional arts projects. He provided charts that indicated the amount of tax increment financing (TIF) that was used by the city and the effect that it has had. However, TIFs are not the total answer. The council considered what could be done and looked at eliminating or reducing the state income tax in the area, but the sales tax would need to be increased and this was not feasible. The proposed legislation is seen as being the best possible course of action.

Mr. Steve Corrie, Chairperson, Siouxland Chamber of Commerce. Mr. Corrie commented that the Siouxland Chamber of Commerce represents the tri-state area and not one state. Thus, it seeks to bring economic development to the entire area. He noted that each state has something to offer besides the tax differences. Mr. Corrie opined that the requirement in the proposed legislation that a targeted job for which a tax credit may be received must pay wages equal to 100 percent of the countywide average is a good percentage figure. Anything above that figure creates an obstacle to getting businesses to locate or expand in Sioux City.

Mr. Ken Beekley, Executive President, Siouxland Economic Development Corporation. Mr. Beekley stated that much of the coverage of economic development in the media involves the efforts to attract business to a particular location. Generous packages of assistance are generally offered to lure businesses to the area. Border cities are more affected by what the adjacent state does than more centrally located communities. Mr. Beekley stated that a significant factor in the competition among states or communities is the business tax climate, which reflects both the tax burden and the structure and complexity of the tax system. Two truths are important for legislators to keep in mind. Those are: (1) taxes matter to business, and competition, both domestic and foreign, forces businesses to constantly search for more tax-friendly environments; and (2) states do not legislate tax changes in a vacuum. He noted that during the second quarter of 2004, between 70 percent and 75 percent of the mass layoffs resulted from transfers of businesses to another United States location.

Mr. Beekley discussed two research studies on comparative business tax climates and the ranking of the states that border Iowa. Based on these studies, he was able to arrive at several significant findings concerning all of the states' business tax climate rankings. These findings include the following: (1) all four states without a corporate income tax are in the top 10 and three states of the top 10 have just one bracket with a moderate rate; (2) all of the seven states without an individual income tax rank in the top 10; and (3) seven of the states with the best business tax climates also scored in the top 10 on fiscal balance, which measures state tax collections and the rules controlling revenue growth and expenditure.

Mr. Marty Palmer, President, Palmer Candy Company. Mr. Palmer noted that his company represents three generations and 85 years in existence in Sioux City. He spoke in favor of the proposed legislation, especially in regard to the 100 percent of the countywide average wage being the minimum wage requirement for the targeted jobs for which the tax credit would be granted. He thought that the $500,000 investment seemed very low, but expressed his disfavor with a very high figure like $10 million. This amount of investment would forestall businesses like his own from qualifying. He also thought the emphasis should be on companies with a labor force of 150 to 250 instead of 1,000 to 2,000.

Dr. Julie Stoik, Western Iowa Tech Community College, Government Affairs. Dr. Stoik discussed the New Jobs Training Program under Iowa Code chapter 260E that allows the community colleges to train new employees of businesses with the funding mechanism for the training costs to be a withholding tax credit similar to the one contained in the proposed legislation. The tax credit in the proposal is viewed by the community colleges as complementary to the tax credit under the training program. She stated that these two credits together would be an effective tool for attracting businesses to enter or expand in Iowa.

Mr. Dave Bernstein, State Steel Supply. Mr. Bernstein stated that his company involves scrap yards and new steel products. It is capital-extensive and does not add a lot of jobs, so many of the existing assistance programs are not as beneficial to the company. However, he added that the company did use the incentives under the Enterprize Zone Program. Mr. Bernstein also expressed his approval of using 100 percent of the countywide average wage as the base in the proposed legislation. He felt that this is more acceptable than the 130 percent required under the Grow Iowa Values Fund.

Ms. Patty Heagel, Economic Development Director, Sioux City. Ms. Heagel stated that the tri-state area is a unique region that can generate opportunities through collaborative efforts. However, the region can also disproportionately encourage job growth in one or two areas over another. This is what is happening with Sioux City. Ms. Heagel provided three current examples of companies with which the city is negotiating. These involve a company seeking to relocate, possibly outside of Iowa, and the other two companies seeking to expand. She noted that obstacles faced by Sioux City include South Dakota's lack of income taxes and a new Nebraska law providing a new "smorgasbord" of tax incentives. She noted that previous Iowa tax incentives were easier to use because the wages-paid requirement did not exceed 100 percent of the countywide average. She is definitely in favor of using the 100 percent requirement.

Mr. John Williams, CPA. Mr. Williams stated that when a business reviews the costs associated with locating in a particular state, the corporate income tax is obviously a factor. However, because of the corporate income tax structure in Iowa, Nebraska, and South Dakota, it is not a major factor. Both Iowa and Nebraska use the single factor of sales to determine the proportion of a business's net income subject to tax in those states, without a throwback provision. A throwback provision assigns income to the state of domicile if the income is not taxed in another state. South Dakota has no corporate income tax.

Mr. Williams had examples of apportioning taxable income to various states based upon locality of company, the number of factors used in apportioning, a throwback provision, and a state with no income tax. He also did a comparison based upon the present law in Iowa, Nebraska, South Dakota, and Minnesota. Examples of individual income tax savings where business and employee were domiciled in Iowa, Nebraska, and South Dakota were provided.

Mr. Marty Dougherty, Sioux City Council Member. Mr. Dougherty discussed how the proposed legislation arose. It started by discussing how to get new jobs and to level the field. Sioux City made significant infrastructure investment, especially in industrial parks, but decided to go with a smaller approach. The proposed legislation would not affect local resources and would cost nothing unless new jobs are established. He emphasized that failure to build up the tax base is a greater threat to the economy than to provide the tax incentive authorized in the proposed legislation.

Committee Discussion. The Committee ended the two-day meeting by discussing what was presented and the proposed withholding tax credit.

III. Recommendation.

The Committee voted unanimously to recommend the proposed legislation, LSB 3488XC 81, be considered by the General Assembly, with the understanding that changes will be made as it passes through the standing committees. The proposed legislation was redrafted as LSB 5218IC 81 and is attached to this Final Report.

IV. Materials Filed With the Legislative Services Agency.

The materials distributed in connection with the meeting are on file with the Legislative Services Agency and may be accessed on the Internet at:

http://www.legis.state.ia.us/aspx/Committees/Committee.aspx?id=78.

The following list of materials and handouts was made available to the members of the Committee.

1. LSB 3488XC 81 — "An Act providing for a targeted jobs withholding tax credit to be used for funding improvements in certain urban renewal areas."
2. Handout from Mr. John Meyers, Finance Director, City of Sioux City.
3. Handout from Mr. Kenneth Beekley, Executive Vice President, Siouxland Economic Development Corporation.
4. Handout from Dr. Julie Stoik, Executive Director of Institutional Advancement and Governmental Relations, Western Iowa Tech Community College.
5. Handout from Ms. Patty Heagel, Economic Development Director, City of Sioux City.
6. Handout from Mr. John Williams, certified public accountant and shareholder, Henjes, Conner & Williams, P.C.

3563ic

SENATE/HOUSE FILE ______
BY (PROPOSED TARGETED JOBS WITHHOLDING TAX CREDIT STUDY COMMITTEE BILL)

Passed Senate, Date ____________ Passed House, Date ____________
Vote: Ayes ______ Nays ________ Vote: Ayes ______ Nays ________
Approved ____________________________

A BILL FOR

An Act providing for a targeted jobs withholding tax credit to be used for funding improvements in certain urban renewal areas.
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5218IC 81
mg/cf/24

S.F. ________ H.F. ________

Section 1. Section 403.17, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 7A. "Business" means any commercial, professional services, or industrial enterprise, including medical treatment facilities, manufacturing facilities, corporate headquarters, and research facilities. "Business" does not include 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.

NEW SUBSECTION. 10A. "Employee" means the individual employed in a targeted job that is subject to a withholding agreement.

NEW SUBSECTION. 10B. "Employer" means a business creating targeted jobs in an urban renewal area of a pilot project city pursuant to a withholding agreement.

NEW SUBSECTION. 18A. "Pilot project city" means the largest city in a county with a population of at least ninety-five thousand but not more than one hundred ten thousand residents or the largest city in a county with a population of at least eighty-one thousand but not more than eighty-eight thousand five hundred residents. The population figures are based upon the 2000 certified federal census.

NEW SUBSECTION. 20A. "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.

NEW SUBSECTION. 22A. "Targeted job" means a job in a business which is or will be located in an urban renewal area of a pilot project city that pays a wage at least equal to the countywide average wage. "Targeted job" does not include jobs that formerly existed in the business in this state unless the business is considering in good faith to relocate outside this state or unless the relocation is related to an expansion which will generate significant new job creation.

NEW SUBSECTION. 26. "Withholding agreement" means the agreement between a pilot project city and an employer concerning the targeted jobs withholding credit authorized in section 403.19A.

Sec. 2. NEW SECTION. 403.19A WITHHOLDING AGREEMENT -- TAX CREDIT.

1. A pilot project city may further provide by ordinance for the deposit into the special fund described in section 403.19, subsection 2, 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.

2. 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 occurs 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 the special fund for the urban renewal area in which the targeted jobs are located. All amounts so deposited may be used or pledged by the pilot project city for any purpose authorized in section 403.19.

3. a. The pilot project city shall enter into a withholding agreement with each employer concerning the targeted jobs withholding credit. However, an agreement shall not be entered into by a pilot project city with a business

currently located in this state unless the business either creates ten new jobs or makes at least five hundred thousand dollars of qualifying investment within the urban renewal area. The withholding agreement may have a term of up to ten years. However, the agreement may provide for the extension of the agreement for up to an additional ten years or until the debt for which the special fund was established is paid off or is refinanced, whichever is the earlier. Notice of any withholding agreement shall be provided promptly to the department of revenue following its execution by the pilot project city and the employer. An employer shall not be obligated to enter into a withholding agreement. 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.

b. The pilot project city shall not enter into a withholding agreement after June 30, 2010, except in the case of an extension of a previously existing agreement as provided in paragraph "a".

4. 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.

5. 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 special fund and shall provide other information the department may require.

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

7. 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 15.331, Code 2005, shall be collected and disbursed

prior to the withholding credit under this section.

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

a. The total number of targeted jobs and a breakdown as to those that are Iowa business expansions or retentions and those that are jobs resulting from out-of-state businesses moving to or expanding in Iowa.

b. The number of withholding agreements and the amount of withholding credits involved.

c. The types of businesses that did and did not enter into the agreements.

EXPLANATION

This bill allows two pilot project cities to assist in funding projects in their urban renewal areas by means of a targeted jobs credit from withholding. This credit is available to businesses that are or will locate in an urban renewal area. Businesses already located in the area must either create 10 new jobs or make at least $500,000 in capital investment within the area. The credit is 3 percent of the amount of gross wages paid to the employees of the new jobs by the business. The credit is paid to the pilot project city to be used to pay for debts incurred by the city to assist the business in the urban renewal area. Presently, property tax imposed on the increase in value as a result of the business's arrival is used to provide such financing. The withholding credit is available to each targeted job of the business in the area provided the job's wage is equal to at least the average county wage. A withholding agreement shall not be entered into after June 30, 2010, unless it is an extension of a previous agreement.

The two pilot project cities are the largest city located in a county with a population of 95,000 to 110,000 and the largest city located in a county with a population of 81,000 to 88,500.