

## Red Tape Review Rule Report (Due: September 1, 2025)

<b>Department Name:</b>	IEDA	<b>Date:</b>	6/30/25	<b>Total Rule Count:</b>	7
<b>IAC #:</b>	261	<b>Chapter/ SubChapter/ Rule(s):</b>	Chapter 71	<b>Iowa Code Section Authorizing Rule:</b>	403.19A
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**PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE**

### What is the intended benefit of the rule?

The intended benefit of chapter 71 is to describe the policies and procedures applicable to the Targeted Jobs Withholding Tax Credit Program. The program allows diversion of withholding funds paid by an employer to be matched by a designated pilot city to create economic incentives directed toward the growth and expansion of targeted businesses.

### Is the benefit being achieved? Please provide evidence.

Yes. The authority is able to effectively award and administer the program.

### What are the costs incurred by the public to comply with the rule?

Entities interested in applying for the program may require staff time to complete an application to receive an award. Recipients of financial assistance may similarly incur costs to comply with reporting and monitoring requirements of the program. Some applicants/recipients may choose to rely on an external service provider to complete these tasks. The amount of the costs will vary, depending on the compensation of staff or service providers involved. The application and reports require minimal time to complete.

### What are the costs to the agency or any other agency to implement/enforce the rule?

IEDA staff time is required to review and prepare applications for approval, draft and execute program contracts, authorize utilization of the withholding credit, review reports, and communicate with program applicants and recipients.

### Do the costs justify the benefits achieved? Please explain.

Yes. Only entities that will potentially benefit from the program incur any costs. The costs to the state to administer the program are proportional to the activities incited.

Are there less restrictive alternatives to accomplish the benefit? ☐ YES ☒ NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The application and administrative requirements of the rules are no more than necessary to implement the purposes of the program.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

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Yes.

Rule 71.1 should be updated to omit repetition of statutory language and references to other rule chapters that have been rescinded by IEDA. Definitions of terms not used in the chapter should be omitted as well.

Rule 72.2 is unnecessary and should be rescinded.

Rule 71.3 should be updated to reflect the pilot project cities selected to participate in the program based on applications received prior to October 1, 2006. Because applications were required to be submitted by that date, the description of the application and approval for pilot project cities is not necessary.

Rule 71.4 should be updated to omit repetition of statutory language.

Rule 71.5 should be updated to omit repetition of statutory language. Existing policies regarding initiation of projects requesting withholding tax credits should be incorporated into this rule.

Rule 71.6 should be updated to omit repetition of statutory language.

Rule 71.7 should be updated to remove outdated language regarding agreements entered before July 1, 2013.

A new rule regarding job counting policies should be added to the chapter to replace an outdated reference to 261—Chapter 188. That chapter was rescinded in August 2024.

Rules throughout the chapter should be renumbered due to the rescission of rule 71.2 and addition of the new rule regarding job counting.

**RULES PROPOSED FOR REPEAL (list rule number[s]):**

71.2

**\*RULES PROPOSED FOR RE-PROMULGATION\* (list rule number[s] or include text if available):**

CHAPTER 71  
TARGETED JOBS WITHHOLDING TAX CREDIT PROGRAM

**261—71.1(403) Definitions.**

*“Authority”* means the economic development authority created in Iowa Code section 15.105.

*“Award date”* means the date the board approved a withholding agreement.

*“Base employment level”* means the number of full-time equivalent positions at an employer, as established by the authority and an employer using the employer’s payroll records, as of the date an employer applies for the program.

*“Board”* means the same as defined in Iowa Code section 15.102.

*“Business”* means the same as defined in Iowa Code section 403.19A.

*“Countywide average wage”* means the average that the authority calculates using the most current four quarters of wage and employment information as provided in the quarterly covered wage and employment data report as provided by the department of workforce development. Agricultural/mining and governmental employment categories are deleted in compiling the wage information.

*“Created job”* means a new, permanent, full-time equivalent position added to an employer’s payroll in excess of the employer’s base employment level.

*“Employee”* means the the same as defined in Iowa Code section 403.19A.

*“Employer”* means the same as defined in Iowa Code section 403.19A.

*“Employer’s taxable capital investment”* means a capital investment in real property, including but not limited to the purchase of land and existing buildings and building construction included in the project, that is subject to taxation by the local taxing authority.

*“Full-time equivalent job”* or *“full-time”* means a non-part-time position for the number of hours or days per week considered to be full-time work for the kind of service or work performed for an employer. Typically, a full-time equivalent position requires two thousand eighty hours of work in a calendar year, including all paid holidays, vacations, sick time, and other paid leave.

*“Local financial support”* or *“local match”* means the same as defined in Iowa Code section 403.19A(3) “k”(2). For the purposes of this definition, “Cash” includes but is not limited to loans, forgivable loans or grants. For the purposes of this definition, “In-kind contributions” means contributions directly related to the project and includes but is not limited to the construction of private or public infrastructure or other amenities and improvements.

*“Pilot project city”* the same as defined in Iowa Code section 403.19A.

*“Project”* means an activity or set of activities directly related to the start-up, location, modernization, or expansion of a business, and proposed in an application by a business, that will result in the accomplishment of the goals of the program.

*“Qualifying investment”* means the same as defined in Iowa Code section 403.19A For purposes of this definition, “long-term lease costs” means those costs incurred or expected to be incurred under a lease during the duration of a withholding agreement, provided that the cumulative cost for that period does not exceed the cost of the land and the third-party developer’s costs to build or renovate the building for the approved employer.

*“Retained job”* means the same as defined in Iowa Code section 403.19A. For the purposes of this definition, a position “at risk of elimination” includes a position that would be relocated out of state.

*“Targeted job”* means the same as defined in Iowa Code section 403.19A.

*“Withholding agreement”* means the same as defined in Iowa Code section 403.19A.

**261—71.2(403) Pilot project cities.** Pursuant to Iowa Code section 403.19A(2), pilot project cities were identified by the authority based on applications received prior to October 1, 2006. The identified pilot project cities are:

1. Burlington
2. Council Bluffs
3. Fort Madison
4. Keokuk
5. Sioux City.

**261—71.3(403) Withholding agreements.** The authority and a pilot project city may enter into a withholding agreement pursuant to Iowa Code section 403.19A. In addition to the items described in Iowa Code section 403.19A(3) “d”, a withholding agreement shall contain all of the following:

1. A list of all other incentives or financial assistance the employer has requested or is receiving from other federal, state, or local economic development programs including loans, grants, forgivable loans, and tax credits.
2. The total amount of withholding tax credits awarded.

3. The total number of created jobs and retained jobs included in the project.
4. The required countywide average wage.
5. The total qualifying investment included in the project.
6. The total required matching local financial support for the project.
7. The term of the withholding agreement.
8. Any terms deemed necessary by the authority to effect compliance with the requirements of Iowa Code section 403.19A and this chapter.

**261—71.4(403) Project approval.**

**71.4(1) *Request for board approval form.*** To request board approval of a proposed withholding agreement, an employer and pilot project city shall utilize a standardized application developed by the authority. The form will include, but not be limited to, the following:

- a. A general description of the project, including how the pilot project city will utilize withholding funds generated by the project.
- b. The employer's base employment level.
- c. Information regarding the number of targeted jobs in the project, the wages of the targeted jobs, and the types of jobs created by the project.
- d. A budget for the project, showing the total project cost, the amount of local matching funds committed to the project, and the amount of withholding funds the pilot project city will receive from the project.
- e. A letter or resolution of support from the local government showing support for the project.

**71.4(2) *Timing of submittal.*** Requests for board approval of a proposed withholding agreement may be submitted at any time. The authority will review requests for approval of a proposed withholding agreement in as timely a manner as possible.

**71.4(3) *Project initiation.*** The authority will not accept applications for projects that have been initiated or will be initiated prior to board consideration of the employer's application for the program unless the employer establishes that not initiating the project prior to board consideration of the application would result in undue hardship or that extenuating circumstances necessitate initiating the project prior to board consideration of the employer's application for the program. Whether an undue hardship or extenuating circumstance exists will be determined by the authority.

- a. Any one of the following may indicate that a project has been initiated:
  1. The start of construction of new or expanded buildings;
  2. The start of rehabilitation of existing buildings;
  3. The purchase or leasing of existing buildings; or
  4. The installation of new machinery and equipment or new computers to be used in the operation of the project.
- b. The following shall not indicate a project has been initiated:
  - (1) The purchase of land or signing an option to purchase land;
  - (2) Earthmoving or other site development activities not involving actual building construction, expansion or rehabilitation; or
  - (3) Acquisition of a business as a going concern.
- c. Any costs incurred prior to the award date are not eligible qualifying investment expenses.

**71.4(4) *Board action on requests for approval.*** The board, on behalf of the authority, may approve or deny a withholding agreement according to the provisions of Iowa Code section 403.19A and this chapter. A pilot project city and employer will be notified in writing of the board's decision regarding the proposed withholding agreement.

**261—71.5(403) Reporting requirements.**

**71.5(1)** The annual report required by Iowa Code section 403.19A(3)"c" (3) shall be submitted by the employer by September 1 covering the prior fiscal year (July 1 to June 30). The authority will verify job creation or retention using the method described in rule 261—71.6.

**71.5(2)** The authority may request additional reports from pilot project cities as necessary to determine the status of the targeted jobs withholding tax credit program.

**71.5(3)** The pilot project city or employer shall provide the following upon request:

- a. Payroll records that correspond to the quarterly report provided by the pilot project city for the department of revenue;
- b. Information substantiating the total amount of qualifying investment made in the project;
- c. Information substantiating the total amount of local financial support made in the project;
- d. Payments and receipts under a withholding agreement.

**261—71.6(15) Job counting.**

**71.6(1) Overview.** The authority will count created and retained jobs using a base employment analysis comparing the base employment level to employment at another date. The employer's base employment level will be established at the time of application for the program. The number of jobs the employer has pledged to create shall be in addition to the base employment level. Retained jobs may be included in the base employment level as established at the time of approval.

**71.6(2) Base employment level.**

a. Base employment level will include the number of full-time equivalent positions employed at the project location. If the project occurs at more than one physical location, the employer's base employment level will include the total number of full-time equivalent positions working at the identified locations. Base employment level may include the employer's full-time equivalent positions as identified by the authority who are employed in this state but are not employed at the project location.

b. If an employer enters multiple withholding agreements for projects at the same location, the base employment level will be calculated by using the payroll document from the oldest withholding agreement that is open. Job obligations from each new withholding agreement will be added to this base employment level.

c. The authority will collect payroll documents to calculate and verify base employment level used in each withholding agreement. Payroll documents must include a name or employee identification number and the hourly rate of pay for all full-time equivalent positions.

d. If the base employment level includes retained jobs, the authority will require an employer to verify that a job is at risk. Such verification may include the signed statement of an officer of the employer, documentation that the employer is actively exploring other sites for the project, or any other information the authority may reasonably require during the application review process to establish that a job is at risk.

**71.6(3) Verification.** At the project completion date, during the maintenance period, and following the maintenance period completion date, payroll documents will be used to calculate and verify compliance with job obligations. The person who submits the documents must, under penalty of perjury, verify that the information contained in the documents is true and correct.

**71.6(4) Full-time equivalent positions.** Only a full-time equivalent position filled by an individual will be considered an employee of the employer for the purpose of establishing the base employment level, retained jobs, or created jobs. The authority will not consider "job sharing" or any other means of aggregation or combination of hours worked by more than one natural person in counting jobs. The authority will verify that full-time equivalent positions constitute the employment of one person for:

a. Eight hours per day for a five-day, 40-hour workweek for 52 weeks per year, including paid holidays, vacations and other paid leave; or

b. The number of hours or days per week, including paid holidays, vacations and other paid leave, currently established by schedule, custom, or otherwise, as constituting a week of full-time work for the kind of service an individual performs for an employing unit, provided that the number of hours per week is at least 32 hours per week for 52 weeks per year, including paid holidays, vacations, and other paid leave.

c. If employees at the facility do not typically work 40 hours per week, the employer will be required to provide documentation outlining what the employer considers a full-time workweek and how the employer's interpretation fits within the norms of its industry standards. Whether to accept this interpretation is within the sole discretion of the authority.

**71.6(5) Contract employees.** An employer's leased or contract employee may be included in the base employment level, as a created job, or as a retained job only if the following requirements are met:

a. The employer has a legally binding contract with a third-party provider to provide the leased or contract employee.

b. The contract between the third-party provider and the employer specifically requires the third-party provider to pay the wages required and for the time period required by the authority as conditions of the approval of a withholding agreement with the employer.

c. The contract between the third-party provider and the employer specifically requires the third-party provider to submit payroll records to the authority, in form and content and as frequently as required by the authority, for purposes of verifying that the employer's job creation/retention.

d. The contract between the third-party provider and the employer specifically authorizes the authority, or its authorized representatives, to access the third-party provider's records related to the project.

e. The employer agrees to be contractually liable to the authority for the performance or nonperformance of the third-party provider.

**71.6(6) Remote employees.** Employees with a reasonable connection to a project location who work remotely may be included in the base employment level, as a created job, or as a retained job as established by the authority at the time of application. To determine whether employees who work remotely should be included, the authority will consider an employer's policies on establishing remote work locations for employees, reporting structures, percentage of time worked at the project location, and the distance of employees' remote work locations from the project location. Only employees who work remotely within a defined geographic area established by the authority will be included. Whether an employee who works remotely is

included in the base employment level, as a created job, or as a retained job pursuant to this subrule shall be solely within the discretion of the authority.

**71.6(7) Wages.** Jobs that are not paid the countywide average wage will not be counted toward an employer's job creation or job retention obligations. To determine the wages paid to the employees of an eligible business, the authority will include only monetary compensation, represented in terms of an hourly rate, paid by an employer to an employee for work or services provided, typically on a weekly or biweekly basis. The wage will not include nonregular forms of compensation, such as bonuses, unusual overtime pay, commissions, stock options, pensions, retirement or death benefits, unemployment benefits, life or other insurance, or other fringe benefits.

**261—71.7(403) Applicability.** This chapter applies to withholding agreements entered into on or after July 1, 2013. Withholding agreements entered into prior to July 1, 2013, shall be governed by this chapter as it existed prior to the enactment of 2013 Iowa Acts, Senate File 433.

These rules are intended to implement Iowa Code section 403.19A.

***\*For rules being re-promulgated with changes, you may attach a document with suggested changes.***

#### METRICS

<b>Total number of rules repealed:</b>	<b>1</b>
<b>Proposed word count reduction after repeal and/or re-promulgation</b>	<b>1704</b>
<b>Proposed number of restrictive terms eliminated after repeal and/or re-promulgation</b>	<b>67</b>

#### ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Yes, the program should be eliminated or allowed to sunset in 2027 pursuant to Iowa Code section 403.19A(3)"c" (2). Elimination of the program was proposed by IEDA during the 2025 legislative session.