

**CITY OF WILLMAR, MINNESOTA
REQUEST FOR COMMITTEE ACTION**

Agenda Item Number: _____

Meeting Date: April 25, 2013

Attachments: Yes No

CITY COUNCIL ACTION

Date: _____

- | | |
|-----------------------------------|---------------------------------|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Denied |
| <input type="checkbox"/> Amended | <input type="checkbox"/> Tabled |
| <input type="checkbox"/> Other | |

Originating Department: Planning and Development Services

Action Requested: Review of Business Subsidy Policy

Guiding Principle: Economic Development

Introduction: Approximately 10 years ago the City of Willmar adopted a Business Subsidy Policy that governs the use of all business incentives.

Background/Justification: The Business Subsidy Policy has been used in conjunction with other policies in analyzing the use of incentives and in setting developer goals for incentives. It is necessary for the City to reevaluate the wage floor in the policy and to recommend a change.

Fiscal Impact: No impact on the City, the fiscal impact would be felt by the developer requesting the incentives.

Alternatives: 1. Adjust the wage floor
2. Leave the policy as is

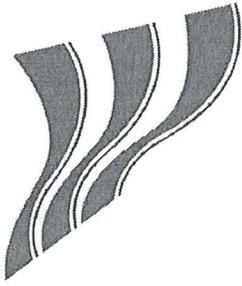
Staff Recommendation: To adjust the wage floor to \$12.00 per hour.

Reviewed by:

Preparer: Bruce D. Peterson, AICP

Signature:

Comments:



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Originating Department: Planning and Development Services

Action Requested: Discussion and consideration of tax abatement policies

Guiding Principle: Economic Development

Introduction: Staff has been directed to work with the Committee to develop policies for the use of tax abatement.

Background/Justification: In the past, the City has used a combination of the Business Subsidy Policy, Minnesota Statutes, and our Tax Increment Financing Policy in the course of considering requests for tax abatement. It has been deemed necessary to refine a policy for tax abatement. Staff will present an outline for a policy, and seeks input from the Committee regarding content.

Fiscal Impact: N/A

Alternatives: 1. Adopt a specific policy for tax abatement
2. Continue to use a combination of Business Subsidy Policy, TIF Policy, and State Statute.

Staff Recommendation: N/A

Reviewed by:

Preparer: Bruce D. Peterson, AICP

Signature:

Comments:

City of Willmar Business Subsidy Policy

This Policy is adopted for purposes of the business subsidies act (the "Act"), which is Minnesota Statutes, Section 116J.993 through 116J.995. Terms used in this Policy are intended to have the same meanings as used in the Act, and this Policy shall apply only with respect to subsidies granted under the Act if and to the extent required thereby.

While it is recognized that the creation of good paying jobs is a desirable goal which benefits the Willmar community, it must also be recognized that not all projects assisted with subsidies derive their public purposes and importance solely by virtue of job creation. In addition, the imposition of high job creation requirements and high wage levels may be unrealistic and counter-productive in the face of larger economic forces and the financial and competitive circumstances of an individual business.

The granting of subsidies shall be guided by the following principles and criteria:

1. Each project shall be evaluated based on its perceived importance and benefit to the community from all perspectives deemed relevant, including created or retained employment positions, where applicable.
2. The Act now provides that, after public hearing thereon, if the creation or retention of jobs is determined not to be a goal of a business subsidy, the wage and job goals may be set at zero. Where creation or retention of jobs is a goal, the specific number of jobs to be created or retained shall be stated in the subsidy agreement. Where creation of new jobs is required, those jobs shall have a wage floor of \$11.00 per hour.
3. The specific minimum requirements under Section 116J.994, Subdivision 2, of the Act that a recipient must meet in return for the business subsidy shall be, where applicable:
 4. The retention of existing jobs,
 5. The creation of the specified number of new jobs at or exceeding the wage floor, and/or
 - Where the subsidy relates to the acquisition of personal property or the acquisition and/or physical development of real property, the substantial completion of the acquisition or development thereof.

Where applicable, the foregoing shall also be the stated measurable, specific and tangible goals for the subsidy under the related subsidy agreement, as provided in Section 116J.994, Subdivision 3(3), of the Act.

6. It is recognized that a particular project which does not include as a goal the creation or retention of jobs may nonetheless be worthy of support and subsidy in respect of other perceived benefits.
7. In cases where the objective is the retention of existing jobs, the recipient of the subsidy shall be required to provide reasonably specific and demonstrable evidence of the job loss, absent the subsidy.
8. Subject to the wage floor, where applicable, the setting of wage and job goals must be sensitive to prevailing wage rates, local economic conditions, external economic forces over which neither the grantor nor the recipient of the subsidy has control, the individual financial resources of the recipient and the competitive environment in which the recipient's business exists.
9. Because it is not possible to anticipate every type of project which may in its context and time present desirable community building or preservation goals and objectives, the governing body must retain the right in its discretion to approve projects and subsidies which may vary from the principles and criteria of this Policy, as may be permitted by but subject to the procedural and other requirements of the Act.
10. As provided in the Act, deviations from the criteria of this Policy are permitted by documenting in writing the reasons for the deviation and attaching a copy of the document to the next annual report to the Minnesota Department of Employment and Economic Development (DEED).
11. The terms of this policy, including the setting of the wage floor, shall be reviewed on a bi-annual basis.

This Policy is intended to conform to the requirements of the Act, including the year 2000 amendments thereto. A copy of this Policy (and any amendments hereto) shall be submitted along with the first annual report to DEED following its adoption.

Adopted by: the City Council of the City of Willmar, Minnesota
Date of Adoption: March 15, 2004
Date of Public Hearing: March 15, 2004

Wage floor amended to \$11.00 per hour as per Council action on April 16, 2007

PURPOSE

The purpose of these policies is to guide the City of Willmar in the prudent and wise use of economic development financing tools which serve to eliminate blight, preserve and create jobs, and expand the tax base.

I. TAX INCREMENT FINANCING

A. Project Eligibility/Qualification

The City will use tax increment financing to assist the following types of development/redevelopment projects in accordance with M.S. 469.174-179:

1. Industrial (manufacturing, production, warehouse/distribution, etc.)
2. Bona fide redevelopment which results in a substantial net increase in taxes generated within the district.
3. Other projects which demonstrate significant contribution/benefit to the City, but which would not be economically feasible without such assistance.

Tax increment financing assistance shall be provided only upon demonstration of need and to the degree necessary to accomplish the desired development. The use of private financing in any project must be maximized. Projects shall be structured so as to minimize the City's financial exposure and to reduce the risk of having to levy taxes to retire debt issued for a project.

B. Review Criteria

The following criteria shall be reviewed when considering a request for tax increment financing:

1. Job creation.
2. Tax base enhancement.
3. Impact on municipal services.
4. Impact on traffic/transportation systems.
5. Compatibility with neighborhood.
6. Consistency with Comprehensive Plan.
7. Overall community impact.
8. Amenities offered to the community.
9. Competitive position relative to existing similar business(es).
10. Other.

C. Required Data

The following data/information may be required from the developer/applicant for review by the City:

1. Market feasibility study.
2. Statement of need.
3. Prior development references.
4. Source and use of funds statement with cash flow projections.
5. Commitment of lender (with opinion of financial feasibility).
6. Financial statements which document developer/applicant capabilities.
7. Other.

D. Application.

An application fee (non-refundable) will be charged at the time of application based on the amount of tax increment financing requested by the developer/applicant:

<u>Amount Requested</u>	<u>Fee</u>
less than \$500,000	\$750
\$500,000 - \$1,000,000	\$1000
more than \$1,000,000	\$1500

The application fee is intended to pay the City's administrative and legal costs incurred prior to formal Council action on the application. All such expenses are the responsibility of the applicant, whether or not the financing is approved.

E. Financing Methods

Eligible public development costs in tax increment financing projects can be funded in several ways, including:

1. The sale of tax increment bonds.
2. The use of industrial development reserve funds.
3. By the developer on a pay-as-you-go basis.

The developer/applicant shall be required to execute development and assessment agreements, and to provide completion bonds or equivalent guarantee in an amount to be determined by the City.

2012 Minnesota Statutes

469.1813 ABATEMENT AUTHORITY.

Subdivision 1. **Authority.** The governing body of a political subdivision may grant a current or prospective abatement, by contract or otherwise, of the taxes imposed by the political subdivision on a parcel of property, which may include personal property and machinery, or defer the payments of the taxes and abate the interest and penalty that otherwise would apply, if:

(1) it expects the benefits to the political subdivision of the proposed abatement agreement to at least equal the costs to the political subdivision of the proposed agreement or intends the abatement to phase in a property tax increase, as provided in clause (2)(vii); and

(2) it finds that doing so is in the public interest because it will:

(i) increase or preserve tax base;

(ii) provide employment opportunities in the political subdivision;

(iii) provide or help acquire or construct public facilities;

(iv) help redevelop or renew blighted areas;

(v) help provide access to services for residents of the political subdivision;

(vi) finance or provide public infrastructure;

(vii) phase in a property tax increase on the parcel resulting from an increase of 50 percent or more in one year on the estimated market value of the parcel, other than increase attributable to improvement of the parcel; or

(viii) stabilize the tax base through equalization of property tax revenues for a specified period of time with respect to a taxpayer whose real and personal property is subject to valuation under Minnesota Rules, chapter 8100.

Subd. 1a. **Use of term.** As used in this section and sections 469.1814 and 469.1815, "abatement" includes a deferral of taxes with abatement of interest and penalties unless the context indicates otherwise.

Subd. 2. **Abatement resolution.** (a) The governing body of a political subdivision may grant an abatement only by adopting an abatement resolution, specifying the terms of the abatement. In the case of a town, the board of supervisors may approve the abatement resolution. The resolution must also include a specific statement as to the nature and extent of the public benefits which the governing body expects to result from the agreement. The resolution may provide that the political subdivision will retain or transfer to another political subdivision the abatement to pay for all or part of the cost of acquisition or improvement of public infrastructure, whether or not located on or adjacent to the parcel for which the tax is abated. The abatement may reduce all or part of the property tax amount for the political subdivision on the parcel. A political subdivision's maximum annual amount for a parcel equals its total local tax rate multiplied by the total net tax capacity of the parcel.

(b) The political subdivision may limit the abatement:

(1) to a specific dollar amount per year or in total;

(2) to the increase in property taxes resulting from improvement of the property;

(3) to the increases in property taxes resulting from increases in the market value or tax capacity of the property;

(4) in any other manner the governing body of the subdivision determines is appropriate; or

(5) to the interest and penalty that would otherwise be due on taxes that are deferred.

(c) The political subdivision may not abate tax attributable to the areawide tax under chapter 276A or 473F, except as provided in this subdivision.

Subd. 3. **School district abatements.** An abatement granted under this section is not an abatement for purposes of state aid or local levy under sections 127A.40 to 127A.51.

Subd. 4. **Property located in tax increment financing districts.** The governing body of a political subdivision may not enter into a property tax abatement agreement under sections 469.1812 to 469.1815 that provides for abatement of taxes on a parcel, if the abatement will occur while the parcel is located in a tax increment financing district.

Subd. 5. **Notice and public hearing.** (a) The governing body of the political subdivision may approve an abatement under sections 469.1812 to 469.1815 only after holding a public hearing on the abatement.

(b) Notice of the hearing must be published in a newspaper of general circulation in the political subdivision at least once more than ten days but less than 30 days before the hearing. The newspaper must be one of general interest and readership in the community, and not one of limited subject matter. The newspaper must be published at least once per week. The notice must indicate that the governing body will consider granting a property tax abatement, identify the property or properties for which an abatement is under consideration, and the total estimated amount of the abatement.

Subd. 6. **Duration limit.** (a) A political subdivision may grant an abatement for a period no longer than 15 years, except as provided under paragraph (b). The abatement period commences in the first year in which the abatement granted is either paid or retained in accordance with section 469.1815, subdivision 2. The subdivision may specify in the abatement resolution a shorter duration. If the resolution does not specify a period of time, the abatement is for eight years. If an abatement has been granted to a parcel of property and the period of the abatement has expired, the political subdivision that granted the abatement may not grant another abatement for eight years after the expiration of the first abatement. This prohibition does not apply to improvements added after and not subject to the first abatement. Economic abatement agreements for real and personal property subject to valuation under Minnesota Rules, chapter 8100, are not subject to this prohibition and may be granted successively.

(b) A political subdivision proposing to abate taxes for a parcel may request, in writing, that the other political subdivisions in which the parcel is located grant an abatement for the property. If one of the other political subdivisions declines, in writing, to grant an abatement or if 90 days pass after receipt of the request to grant an abatement without a written response from one of the political subdivisions, the duration limit for an abatement for the parcel by the requesting political subdivision and any other participating political subdivision is increased to 20 years. If the political subdivision which declined to grant an abatement later grants an abatement for the parcel, the 20-year duration limit is reduced by one year for each year that the declining political subdivision grants an abatement for the parcel during the period of the abatement granted by the requesting political subdivision. The duration limit may not be reduced below the limit under paragraph (a).

Subd. 6a. Deferment payment schedule. When the tax is deferred and the interest and penalty abated, the political subdivision must set a schedule for repayments. The deferred payment must be included with the current taxes due and payable in the years the deferred payments are due and payable and must be levied accordingly.

Subd. 6b. Extended duration limit; utilities. Notwithstanding the provisions of subdivision 6, a political subdivision may grant an abatement for a period of up to 20 years, if the abatement is for a taxpayer whose real and personal property is subject to valuation under Minnesota Rules, chapter 8100.

Subd. 7. Review and modification of abatements. The political subdivision may provide in the abatement resolution that the abatement may not be modified or changed during its term. If the abatement resolution does not provide that the abatement may not be modified or changed, the governing body of the political subdivision may review and modify the abatement every second year after it was approved.

Subd. 8. Limitation on abatements. In any year, the total amount of property taxes abated by a political subdivision under this section may not exceed (1) ten percent of the net tax capacity of the political subdivision for the taxes payable year to which the abatement applies, or (2) \$200,000, whichever is greater. The limit under this subdivision does not apply to:

- (i) an uncollected abatement from a prior year that is added to the abatement levy; or
- (ii) a taxpayer whose real and personal property is subject to valuation under Minnesota Rules, chapter 8100.

Subd. 9. Consent of property owner not required. A political subdivision may abate the taxes on a parcel under sections 469.1812 to 469.1815 without obtaining the consent of the property owner. This subdivision does not apply to abatements granted to a taxpayer whose real and personal property is valued under Minnesota Rules, chapter 8100.

Subd. 10. Applicability to utility properties. When this statute is applied or utilized with respect to a taxpayer whose real and personal property is subject to valuation under Minnesota Rules, chapter 8100, the provisions of this section and sections 469.1814 and 469.1815 shall apply only to property specified or described in the abatement contract or agreement.

History: 1997 c 231 art 2 s 46; 1998 c 397 art 11 s 3; 1999 c 243 art 10 s 8-14; 1999 c 248 s 19; 2000 c 490 art 11 s 33-35; 1Sp2001 c 5 art 15 s 26; 2002 c 377 art 7 s 5; 2003 c 127 art 10 s 26; art 12 s 19; 1Sp2003 c 21 art 10 s 11; 2005 c 152 art 1 s 17; 2006 c 259 art 4 s 14-19; 2008 c 366 art 6 s 43; 2012 c 294 art 2 s 41

Property Tax Abatements for Economic Development

What is economic development property tax abatement?

Minnesota law authorizes political subdivisions to grant property tax abatements for economic development (e.g., to encourage a business to locate or expand at a location or to redevelop an area). Minn. Stat. §§ 469.1813-469.1816. Abatements may be either permanent forgiveness or temporary deferral of property tax. Abatements can serve similar purposes to tax increment financing (TIF), a widely used development tool. The legislature enacted the abatement law in 1997 to provide an alternative to TIF and to supplement it.

These economic development tax abatements should be distinguished from property tax abatements that are granted by the county board primarily to correct errors (e.g., to reduce the assessor's market value or to change the classification of the property). Minn. Stat. § 375.192.

For what purposes may abatements be used?

The law allows abatements to be used for a broad range of projects and purposes, if the political subdivision finds that public benefits exceed the costs. Permitted uses of abatements include the following:

- General economic development, such as increasing the tax base or the number of jobs in the area
- Construction of public facilities or infrastructure (e.g., streets and roads)
- Redevelopment of blighted areas
- Providing access to services for residents (e.g., housing or retail would be common examples)
- Deferring or phasing in a large (over 50 percent) property tax increase
- Stabilizing the tax base resulting from the updated utility valuation administrative rules
- Providing relief for businesses with estimated market value of \$250,000 or less who have disrupted access due to public transportation projects

Which local governments can grant abatements?

Counties, cities, towns, and school districts may grant abatements of the taxes they impose. The governing body grants an abatement by resolution. For towns, action at the town meeting is not required. Taxes imposed by special taxing districts (e.g., watersheds or regional agencies) cannot be abated. Similarly, the state general property tax (on commercial/industrial and seasonal-recreational properties) cannot be abated. In the Twin Cities metropolitan area and on the Iron Range, the fiscal disparities tax cannot be explicitly abated. However, a political subdivision may increase its abatement amount to reflect the amount of the tax imposed under fiscal disparities. The abatement does not directly enter into the fiscal disparities calculations.

How long does an abatement apply?

The political subdivision sets the length of the abatement, which cannot exceed 15 years. The term can be extended to 20 years if only two of the three political subdivisions (city/town, county, and school district) grant an abatement.

What is the limitation on abatements?

The total amount of property taxes abated may not exceed the larger of:

- 10 percent of the net tax capacity of the political subdivision, or
- \$200,000.

How do the mechanics of abatement work?

The abatement resolution, approved by the political subdivision, specifies the duration and the amount of property taxes that will be abated. The political subdivision has considerable flexibility in setting the terms of the abatement; for example, it may set the abatement as a percentage of tax payable, a dollar amount, tax attributable to a portion of the parcel’s market value, or something else. The local government adds the abatement to its property tax levy for the year. (The abatement levy is not subject to levy limits.) The owner pays property tax on a parcel and the political subdivision uses the payments as provided by the abatement resolution. For example, the abatement may be used to pay bonds or be given back to the property owner.

May abatements be used to pay bonds?

The abatement law authorizes the issuance of bonds to be paid back with the abatements. For example, bonds could be issued to construct public improvements or to pay for a site for a business. As the property owners pay the abated taxes, they are used to pay the bonds. These bonds can be general obligation bonds or revenue bonds. The abatement bond provisions parallel those in the TIF law: the abatement bonds are not subject to referendum approval and are excluded from debt limits.

How do abatements compare with TIF?

The legislature designed the abatement law as an alternative to and a supplement to TIF. The two programs can be used for similar purposes and both rely upon property tax funding. Both programs have very similar bonding powers. However, abatement and TIF differ in important respects. Some differences include:

- TIF can be used for longer durations (up to 25 years in some cases) than abatements (typically 15 years)
- TIF requires approval only by the municipality (usually the city) to capture all local property taxes, while abatement requires each entity’s approval to capture its taxes and cannot capture special district taxes
- TIF use is subject to more legal restrictions than abatement. These include a blight test for redevelopment districts, but-for findings, and stricter limits on what increments may be spent on. Abatement is more flexible.

How widely has abatement been used?

The following amounts of abatement levies were reported for property taxes payable in 2011, as reported to the Departments of Revenue (cities and counties) and Education (schools).

	Number	Amount
Cities	62	\$8,152,836
Counties	31	3,211,570
Schools	8	881,069
Total	101	\$12,245,475

For more information: Contact legislative analyst Joel Michael at joel.michael@house.mn. Also see the House Research publication *Tax Increment Financing*, October 2011.

The Research Department of the Minnesota House of Representatives is a nonpartisan office providing legislative, legal, and information services to the entire House.