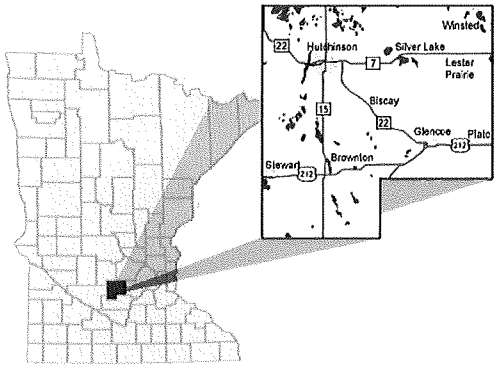
McLEOD COUNTY

Business Subsidy Policy



Public Hearing Held
&
Policy Adopted

March 16, 2010

I. Introduction

This Policy is adopted for the purposes of the business subsidies act (the "Act"), which is Minnesota Statutes, Sections 116J.993 through 116J.995, as amended. Terms used in this Policy are intended to have the same meaning 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 that benefits the county, it must also be recognized that not all projects assisted with business subsidies derive their public purposes 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.

McLeod County further believes that each economic development opportunity offers its own unique benefit to the county whether it be retail, commercial or industrial in nature. These benefits may be in the form of added tax base, new or retained jobs, higher incomes, overall investment in the area, business diversification and / or increased economic activity and vitality.

It is the desire of McLeod County to promote job creation, redevelopment and investment in the county as well as to expand the county's tax base and diversify the county's industrial, commercial and retail base.

To effectively promote economic development within McLeod County, be competitive vis-à-vis other communities and meet the diverse needs of business and industry, the county must have use of all the economic development incentives and tools legally available to it. The use of these incentives and tools cannot be judged nor can they be provided by a single measure, but must rather be evaluated in terms of county need, market trends, job creation, capital outlay and / or technology.

II. Intent to Retain Flexibility

Because it is not possible to anticipate every type of project that may provide benefit to McLeod County, the county shall retain the option to amend or waive sections of this policy when it is determined to be necessary and / or appropriate. Minnesota Statute 116J.994, Subd. 2 allows the county to deviate from its criteria by documenting in writing the reason for the deviation and attaching a copy of the document to its next annual report to the State.

III. Business Subsidy Public Purpose

Business Subsidies shall be provided in order to achieve the following public purposes:

1. Enhance the economic diversity of the county
2. Create high quality job growth
3. Provide for job retention
4. Stabilize the county
5. Increase the tax base

This policy is adopted in compliance with M.S. § 116J.994 Subd. 2.

IV. Definitions

"JOBZ Business Subsidy" means tax exemptions or tax credits available to a qualified business located in a job zone under the Job Opportunity Building Zone (JOBZ) statute M.S. §§ 469.310 - 469.320.

JOBZ Business Subsidies shall include:

1. Exemption from individual income taxes as provided under M.S. § 469.316; and
2. Exemption from corporate franchise taxes as provided under M.S. § 469.317; and
3. Exemption from the state sales and use tax and any local sales and use taxes on qualifying purchases as provided in M.S. § 297A.68, subdivision 37; and
4. Exemption from the state sales tax on motor vehicles and any local sales tax on motor vehicles as provided under M.S. § 297B.03; and
5. Exemption from the property tax as provided in M.S. § 272.02, subdivision 64; and
6. Exemption from the wind energy production tax under M.S. § 272.029, subdivision 7; and
7. The jobs credit allowed under M.S. § 469.318.

"Business Subsidy" means a state or local government agency grant, contribution of personal property, real property, infrastructure, the principal amount of a loan at rates below those commercially available to the recipient, any reduction or deferral of any tax or any fee, any guarantee of any payment under any loan, lease, or other obligation, or any preferential use of government facilities given to a business, and as defined by the Business Subsidy statute M.S. §§ 116J.993 - 116J.995.

Business Subsidies **do not** include the following:

1. Assistance of less than $150,000.
2. Business loans or loan guarantees of $150,000 or less
3. Federal loan funds provided through the U.S. Economic Development Administration.
4. Assistance that is generally available to all businesses or to a general class of similar businesses, such as a line of businesses, size, location or similar general criteria;
5. Public improvements to buildings or lands owned by the County of McLeod that serve a public purpose and do not principally benefit a single business or defined group of businesses at the time the improvements are made;
6. Property polluted by contaminants being redeveloped as defined in M.S. § 116J.552, subd. 3.
7. Assistance provided for the sole purpose of renovating old or decaying building stock or bringing it up to code and assistance to designated historic preservation sites or districts, provided that the assistance is equal to or less than 50% of the total cost of the development;
8. Assistance to provide job readiness and training services;
9. Assistance for housing;

10. Assistance for pollution control or abatement, including assistance from a TIF hazardous substances subdistrict;
11. Assistance for energy conservation;
12. Tax reductions resulting from conformity with federal tax law;
13. Workers compensation and unemployment compensation;
14. Benefits derived from regulation;
15. Indirect benefits derived from assistance to educational institutions;
16. Funds from bonds allocated under M.S., Chapter 47A refunding bonds and 501(c)(3) bonds;
17. Assistance for collaboration between a Minnesota higher education institution and a business;
18. Assistance from a tax increment financing soils condition district as defined under M.S.469.174, subd.19;
19. Redevelopment when the Recipients or Qualified Business' investment in the purchase of the site and in site preparation is 70 percent or more of the assessor's current years estimated market value;
20. General changes in tax increment financing law and other general tax law changes of a principally technical nature;
21. Federal assistance until the assistance has been repaid to and reinvested by the local governmental unit;
22. Funds from dock or wharf bonds issued by a seaway port authority;

"Business Subsidy Report" means the annual reports submitted each year for each business receiving a business subsidy in the county. The report is submitted by the local government unit in order to comply with M.S. § 116J.994 Subd. 7. (b).

"Criteria" means the equitably applied, uniform standards by which the Economic Development Agency and /or the County bases its decision to award any business subsidy to a private business or development project establishing a business and creating jobs in the County of McLeod.

"DEED" means Minnesota Department of Employment and Economic Development.

"Economic Development Agent" means the County department, local or regional economic development agency or other authorized entity that is empowered to solicit, negotiate and form business subsidy agreements on behalf of the County of McLeod. The Economic Development Agent for the ***County of McLeod*** shall be the Economic Development Authority (COUNTY) Board of Directors, hereinafter "Agent".

"Operation Start Date" shall mean the date by which the business begins is operations in the zone as evidenced by constructing a facility or relocating to an existing building and beginning revenue generating operations and / or hiring employees.

"Qualified Business" means an legal entity that carries on a trade or business within a Job Opportunity Building Zone as referenced in M.S. § 469.310 Subd. 11; and complies with the reporting requirements specified by M.S. § 469.313 Subd. 2. (5); and shall comply with the job and wage criteria established by this policy and shall also mean "Recipient" as defined by Business Subsidy law.

"Recipient" means any business entity that receives a business subsidy as defined by M.S. § 116J.993, and that has signed a Business Subsidy Agreement with a County.

"Relocating Business" A business relocating from another Minnesota non-JOB Zone location.

"Relocation Agreement" means a binding written agreement between a relocating qualified business and the commissioner of DEED pledging that the qualified business shall either: (a) increase full-time or full-time equivalent employment in the first full year of operation within the Job Opportunity Building Zone by at least 20 percent, ***or*** (b) make a capital investment on the property equivalent to 10% of the gross revenues of the operation that was relocated in the immediately preceding taxable year; and provides for repayment of all tax benefits if the requirements of (a) or (b) are not met.

"Subzone" means the parcel or parcel of land designated by the Commissioner of Employment and Economic Development within a Job Opportunity Building Zone within the boundaries of Hutchinson to receive certain tax credits and exemptions specified under M.S. § 469.310-469.320.

"Zone" means a Job Opportunity Building Zone or an Agricultural Processing Facility Zone designated by the commissioner of Employment and Economic Development under M.S. § 469.314.

V. Business Subsidy Policies and Requirements

McLeod County hereby adopts the following:

1. Any time ***McLeod County*** provides a business subsidy to a Qualified Business or Recipient, that business is subject to the wage levels, job creation and other criteria set forth in this policy and specified in the Business Subsidy Agreement made with the County. In the event of a conflict between the requirements of the Business Subsidy statute M.S. §§ 116J.993 - 116J.995 and the JOBZ statute M.S. §§ 469.310 - 469.320, the JOBZ statute shall supersede.

2. Job Creation & Wage Guidelines:

   Assistance may be provided as follows:

Project Type	Retail	Commercial	Industrial
Job Creation Goal	At least 1 FT or FTE	At least 2 FT or FTE	1 FT or FTE for each $25,000 in assistance provided.
Wage Goal	At least 100% of State or Federal Minimum Wage* ($7.25 / hr.)**	At least 125% of State or Federal Minimum Wage* ($9.06 / hr)**	At least equal to the U.S. Dept. of Health and Human Services Poverty Level for a family of four ($10.60 / hr)**

*Whichever is higher **Wage as of 2/2/2009

3. ***McLeod County*** may deviate from the wage and job criteria in this section by documenting the reason in writing for the deviation and attaching a copy of this reason to the next annual Business Subsidy Report submitted to DEED.

4. The qualified business that received JOBZ tax benefits shall be identified in the Business Subsidy Agreement as one of the following:

   a. Trade or business located and operating in a JOBZ at the time of Zone designation; or,
   b. Business start-up located within the sub-zone; or,
   c. Business expanding in the subzone which is a business that maintains its current operations in its present location and is expanding its operations *and* its payroll within the ***McLeod County*** sub-zone; or,
   d. Business relocating from another state; or,

e. Business relocating from another Minnesota non-Zone location (specifying the county).

5. A public hearing shall be held by McLeod County as provided by M.S. § 116J.994, when the value of the subsidy exceeds or is expected to exceed $150,000 from local sources.

   The purpose of the hearing is to identify and define the criteria that the qualified business or recipient shall meet in order to be eligible to receive a business subsidy or become a **"Qualified Business"** for purposes of the JOBZ statute. The hearing shall specify all information required to be included in the Business Subsidy Agreement as listed in section 7 (a) (below).

   As provided by M.S. 116J.994, Subd. 5., a public notice shall be published in print and if possible, on the internet, at least 10 days prior to the hearing identifying the location, date, and time of the hearing and providing information about the business subsidy proposed, including a summary of the terms of the subsidy.

6. **Requirements of Businesses**

   a. The business must enter into a **"Business Subsidy Agreement"** with the County that includes:

      (1) A description of the subsidy, including the amount and type of subsidy, and the type of district if the subsidy is tax increment financing;

      (2) A statement of the public purpose(s) of the subsidy;

      (3) Measurable, specific and tangible goals for the subsidy;

      (4) A description of the financial obligation of the recipient if the goals are not met;

      (5) A statement of why the subsidy is needed;

      (6) A commitment to continue operations in the jurisdiction where the subsidy is used for at least five years after the benefit date, or in the case where JOBZ tax benefits are provided, for the duration of the Job Zone term;

      (7) The name and address of the parent corporation of the recipient, if any; and,

      (8) A list of all financial assistance by all grantors for the project

   b. Businesses failing to meet the goals agreed to in the Business Subsidy Agreement must repay the assistance provided with interest, which is set at no less than the implicit price deflator as defined in the Business Subsidy Statute, M.S. §§ 116J.993 - 116J.995. Repayment may be prorated to reflect partial fulfillment of goals.

   c. If the business is locating in a JOBZ zone and the qualified business is a relocating business under the definition provided in this policy, the business shall also be required to enter into a **"Relocation Agreement"** between the

qualified business and the commissioner of DEED pledging that the qualified relocating business shall:

(1) Increase full time employment by 20% (measured relative to the operations that were relocated) within the first full taxable year of operation within the Zone and maintains the required level of employment during each year of zone designation;

OR

(2) Make a capital investment in the Zone equivalent to at least 10% of gross revenues for the taxable year immediately preceding relocation to the Zone.

AND

(3) Report to DEED if the business will:

1. Cease one or more operations or functions at a non-Zone location and begin performing substantially the same functions inside the McLeod County Zone; **and / or,**

2. Reduce employment at the non-Zone location starting one year before and ending one year after beginning operations in the Zone where its employees in the Zone are engaged in the same line of business as the employees at the location where it reduced employment; and,

(4) Identify the date when operations are planned to begin in the JOBZ zone.

Public hearing held and policy adopted by the McLeod County Board on March 16, 2010.

[Public hearing minutes are ATTACHED]