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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 1123

02/23/2015 Authored by Davids
The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; tax increment financing; modifying definitions; clarifying
1.3 interfund loan requirements; providing technical corrections; amending
1.4 Minnesota Statutes 2014, sections 469.174, subdivision 14; 469.176, subdivision
1.5 4; 469.1763, subdivisions 1, 2, 3; 469.178, subdivision 7.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2014, section 469.174, subdivision 14, is amended to read:

1.8 Subd. 14. **Administrative expenses.** "Administrative expenses" means all
1.9 expenditures of an authority other than:

1.10 (1) amounts paid for the purchase of land;

1.11 (2) amounts paid to contractors or others providing materials and services, including
1.12 architectural and engineering services, directly connected with the physical development
1.13 of the real property in the project;

1.14 (3) relocation benefits paid to or services provided for persons residing or businesses
1.15 located in the project;

1.16 (4) amounts used to pay principal or interest on, fund a reserve for, or sell at a
1.17 discount bonds issued pursuant to section 469.178; ~~or~~

1.18 (5) amounts used to pay other financial obligations to the extent those obligations
1.19 were used to finance costs described in clauses (1) to (3); or

1.20 (6) usual and customary maintenance costs necessary for the preservation of
1.21 property acquired or constructed with tax increments and owned by the authority or the
1.22 municipality, including, without limitation, amounts needed for ordinary and extraordinary
1.23 repairs and maintenance, and capital reserves in an amount not greater than ten percent of
1.24 the market value of the property.

2.1 For districts for which the requests for certifications were made before August 1,
2.2 1979, or after June 30, 1982, "administrative expenses" includes amounts paid for services
2.3 provided by bond counsel, fiscal consultants, and planning or economic development
2.4 consultants.

2.5 **EFFECTIVE DATE.** This section is effective the day following final enactment
2.6 and applies to all districts, regardless of when the request for certification was made.

2.7 Sec. 2. Minnesota Statutes 2014, section 469.176, subdivision 4, is amended to read:

2.8 Subd. 4. **Limitation on use of tax increment; general rule.** All revenues derived
2.9 from tax increment shall be used in accordance with the tax increment financing plan. The
2.10 revenues shall be used solely for the following purposes: (1) to pay the principal of and
2.11 interest on bonds issued to finance a project; (2) by a rural development financing authority
2.12 for the purposes stated in section 469.142, by a port authority or municipality exercising the
2.13 powers of a port authority to finance or otherwise pay the cost of redevelopment pursuant to
2.14 sections 469.048 to 469.068, by an economic development authority to finance or otherwise
2.15 pay the cost of redevelopment pursuant to sections 469.090 to 469.108, by a housing and
2.16 redevelopment authority or economic development authority to finance or otherwise pay
2.17 public redevelopment costs pursuant to sections 469.001 to 469.047, by a municipality or
2.18 economic development authority to finance or otherwise pay the capital and administration
2.19 costs of a development district pursuant to sections 469.124 to 469.133, by a municipality
2.20 or authority to finance or otherwise pay the costs of developing and implementing a
2.21 development action response plan, by a municipality or redevelopment agency to finance
2.22 or otherwise pay premiums for insurance or other security guaranteeing the payment when
2.23 due of principal of and interest on the bonds pursuant to chapter 462C, sections 469.152 to
2.24 469.165, or both, or to accumulate and maintain a reserve securing the payment when due
2.25 of the principal of and interest on the bonds pursuant to chapter 462C, sections 469.152 to
2.26 469.165, or both, which revenues in the reserve shall not exceed, subsequent to the fifth
2.27 anniversary of the date of issue of the first bond issue secured by the reserve, an amount
2.28 equal to 20 percent of the aggregate principal amount of the outstanding and nondefeased
2.29 bonds secured by the reserve; and (3) to pay the costs listed in section 469.174, subdivision
2.30 14, but not in excess of the limitation on administrative expenses under subdivision 3.
2.31 Tax increment as defined in section 469.174, subdivision 25, clause (2), may be used to
2.32 pay usual and customary operation and maintenance costs, including, but not limited to,
2.33 amounts needed for capital reserves in an amount not greater than ten percent of the
2.34 market value of the property, and ordinary and extraordinary repairs and maintenance of
2.35 the property purchased by the authority or the municipality with tax increments.

3.1 **EFFECTIVE DATE.** This section is effective the day following final enactment
 3.2 and applies to all districts, regardless of when the request for certification was made.

3.3 Sec. 3. Minnesota Statutes 2014, section 469.1763, subdivision 1, is amended to read:

3.4 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms
 3.5 have the meanings given.

3.6 (b) "Activities" means acquisition of property, clearing of land, site preparation, soils
 3.7 correction, removal of hazardous waste or pollution, installation of utilities, construction
 3.8 of public or private improvements, and other similar activities, but only to the extent that
 3.9 tax increment revenues may be spent for such purposes under other law.

3.10 (c) "Third party" means an entity other than (1) the person receiving the benefit
 3.11 of assistance financed with tax increments, or (2) the municipality or the development
 3.12 authority or other person substantially under the control of the municipality.

3.13 (d) "Revenues derived from tax increments paid by properties in the district" means
 3.14 only tax increment as defined in section 469.174, subdivision 25, clause (1), and does
 3.15 not include tax increment as defined in section 469.174, subdivision 25, clauses (2);
 3.16 ~~(3), and (4)~~ to (5).

3.17 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.18 Sec. 4. Minnesota Statutes 2014, section 469.1763, subdivision 2, is amended to read:

3.19 Subd. 2. **Expenditures outside district.** (a) For each tax increment financing
 3.20 district, an amount equal to at least 75 percent of the total revenue derived from tax
 3.21 increments paid by properties in the district must be expended on activities in the district
 3.22 or to pay bonds, to the extent that the proceeds of the bonds were used to finance activities
 3.23 in the district or to pay, or secure payment of, debt service on credit enhanced bonds.
 3.24 For districts, other than redevelopment districts for which the request for certification
 3.25 was made after June 30, 1995, the in-district percentage for purposes of the preceding
 3.26 sentence is 80 percent. Not more than 25 percent of the total revenue derived from tax
 3.27 increments paid by properties in the district may be expended, through a development fund
 3.28 or otherwise, on activities outside of the district but within the defined geographic area of
 3.29 the project except to pay, or secure payment of, debt service on credit enhanced bonds.
 3.30 For districts, other than redevelopment districts for which the request for certification was
 3.31 made after June 30, 1995, the pooling percentage for purposes of the preceding sentence is
 3.32 20 percent. ~~The revenue~~ revenues derived from tax increments ~~for~~ paid by properties in
 3.33 the district that are expended on costs under section 469.176, subdivision 4h, paragraph

4.1 (b), may be deducted first before calculating the percentages that must be expended within
4.2 and without the district.

4.3 (b) In the case of a housing district, a housing project, as defined in section 469.174,
4.4 subdivision 11, is an activity in the district.

4.5 (c) All administrative expenses are for activities outside of the district, except that
4.6 if the only expenses for activities outside of the district under this subdivision are for
4.7 the purposes described in paragraph (d), administrative expenses will be considered as
4.8 expenditures for activities in the district.

4.9 (d) The authority may elect, in the tax increment financing plan for the district,
4.10 to increase by up to ten percentage points the permitted amount of expenditures for
4.11 activities located outside the geographic area of the district under paragraph (a). As
4.12 permitted by section 469.176, subdivision 4k, the expenditures, including the permitted
4.13 expenditures under paragraph (a), need not be made within the geographic area of the
4.14 project. Expenditures that meet the requirements of this paragraph are legally permitted
4.15 expenditures of the district, notwithstanding section 469.176, subdivisions 4b, 4c, and 4j.
4.16 To qualify for the increase under this paragraph, the expenditures must:

4.17 (1) be used exclusively to assist housing that meets the requirement for a qualified
4.18 low-income building, as that term is used in section 42 of the Internal Revenue Code; and

4.19 (2) not exceed the qualified basis of the housing, as defined under section 42(c) of
4.20 the Internal Revenue Code, less the amount of any credit allowed under section 42 of
4.21 the Internal Revenue Code; and

4.22 (3) be used to:

4.23 (i) acquire and prepare the site of the housing;

4.24 (ii) acquire, construct, or rehabilitate the housing; or

4.25 (iii) make public improvements directly related to the housing; or

4.26 (4) be used to develop housing:

4.27 (i) if the market value of the housing does not exceed the lesser of:

4.28 (A) 150 percent of the average market value of single-family homes in that
4.29 municipality; or

4.30 (B) \$200,000 for municipalities located in the metropolitan area, as defined in
4.31 section 473.121, or \$125,000 for all other municipalities; and

4.32 (ii) if the expenditures are used to pay the cost of site acquisition, relocation,
4.33 demolition of existing structures, site preparation, and pollution abatement on one or
4.34 more parcels, if the parcel contains a residence containing one to four family dwelling
4.35 units that has been vacant for six or more months and is in foreclosure as defined in

5.1 section 325N.10, subdivision 7, but without regard to whether the residence is the owner's
5.2 principal residence, and only after the redemption period has expired.

5.3 (e) For a district created within a biotechnology and health sciences industry zone
5.4 as defined in Minnesota Statutes 2012, section 469.330, subdivision 6, or for an existing
5.5 district located within such a zone, tax increment derived from such a district may be
5.6 expended outside of the district but within the zone only for expenditures required for the
5.7 construction of public infrastructure necessary to support the activities of the zone, land
5.8 acquisition, and other redevelopment costs as defined in section 469.176, subdivision 4j.
5.9 These expenditures are considered as expenditures for activities within the district. The
5.10 authority provided by this paragraph expires for expenditures made after the later of (1)
5.11 December 31, 2015, or (2) the end of the five-year period beginning on the date the district
5.12 was certified, provided that date was before January 1, 2016.

5.13 (f) The authority under paragraph (d), clause (4), expires on December 31, 2016.
5.14 Increments may continue to be expended under this authority after that date, if they are
5.15 used to pay bonds or binding contracts that would qualify under subdivision 3, paragraph
5.16 (a), if December 31, 2016, is considered to be the last date of the five-year period after
5.17 certification under that provision.

5.18 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.19 Sec. 5. Minnesota Statutes 2014, section 469.1763, subdivision 3, is amended to read:

5.20 Subd. 3. **Five-year rule.** (a) Revenues derived from tax increments paid by
5.21 properties in the district are considered to have been expended on an activity within the
5.22 district under subdivision 2 only if one of the following occurs:

5.23 (1) before or within five years after certification of the district, the revenues are
5.24 actually paid to a third party with respect to the activity;

5.25 (2) bonds, the proceeds of which must be used to finance the activity, are issued and
5.26 sold to a third party before or within five years after certification, the revenues are spent
5.27 to repay the bonds, and the proceeds of the bonds either are, on the date of issuance,
5.28 reasonably expected to be spent before the end of the later of (i) the five-year period, or
5.29 (ii) a reasonable temporary period within the meaning of the use of that term under section
5.30 148(c)(1) of the Internal Revenue Code, or are deposited in a reasonably required reserve
5.31 or replacement fund;

5.32 (3) binding contracts with a third party are entered into for performance of the
5.33 activity before or within five years after certification of the district and the revenues are
5.34 spent under the contractual obligation;

6.1 (4) costs with respect to the activity are paid before or within five years after
 6.2 certification of the district and the revenues are spent to reimburse a party for payment
 6.3 of the costs, including interest on unreimbursed costs; or

6.4 (5) expenditures are made for housing purposes as permitted by subdivision 2,
 6.5 paragraphs (b) and (d), or for public infrastructure purposes within a zone as permitted
 6.6 by subdivision 2, paragraph (e).

6.7 (b) For purposes of this subdivision, bonds include subsequent refunding bonds if
 6.8 the original refunded bonds meet the requirements of paragraph (a), clause (2).

6.9 (c) For a redevelopment district or a renewal and renovation district certified after
 6.10 June 30, 2003, and before April 20, 2009, the five-year periods described in paragraph (a)
 6.11 are extended to ten years after certification of the district. For a redevelopment district
 6.12 certified after April 20, 2009, and before June 30, 2012, the five-year periods described in
 6.13 paragraph (a) are extended to eight years after certification of the district. This extension is
 6.14 provided primarily to accommodate delays in development activities due to unanticipated
 6.15 economic circumstances.

6.16 **EFFECTIVE DATE.** This section is effective the day following final enactment.

6.17 Sec. 6. Minnesota Statutes 2014, section 469.178, subdivision 7, is amended to read:

6.18 Subd. 7. **Interfund loans.** (a) The authority or municipality may advance or loan
 6.19 money to finance expenditures under section 469.176, subdivision 4, from its general fund
 6.20 or any other fund under which it has legal authority to do so.

6.21 (b) Not later than 60 days after money is transferred, advanced, or spent, whichever
 6.22 is earliest, the loan or advance must be authorized; (1) by resolution of the governing
 6.23 body or of the authority, whichever has jurisdiction over the fund from which the advance
 6.24 or loan is authorized, ~~before money is transferred, advanced, or spent, whichever is~~
 6.25 ~~earliest;~~ or (2) in writing by an appropriate officer of the municipality or the authority to
 6.26 whom the municipality or authority has delegated by resolution power to administer and
 6.27 set the terms and conditions of the interfund loan.

6.28 (c) The resolution may generally grant to the municipality or the authority or an
 6.29 appropriate officer thereof the power to make interfund loans under one or more tax
 6.30 increment financing plans or for one or more districts. The resolution may be adopted
 6.31 or the interfund loan may be otherwise documented before or after the adoption of the
 6.32 tax increment financing plan or the creation of the tax increment financing district from
 6.33 which the advance or loan is to be repaid.

6.34 (d) The terms and conditions for repayment of the loan must be provided in writing
 6.35 ~~and.~~ The written terms and conditions may be in any form, but must include, at a

7.1 minimum, the principal amount, the interest rate, and maximum term. Written terms may
7.2 be modified or amended in writing by the municipality or the authority, or an appropriate
7.3 officer thereof, before the latest termination of the tax increment financing district from
7.4 which the interfund loan will be paid. The maximum rate of interest permitted to be
7.5 charged is limited to the greater of the rates specified under section 270C.40 or 549.09
7.6 as of the date the loan or advance is authorized, unless the written agreement states that
7.7 the maximum interest rate will fluctuate as the interest rates specified under section
7.8 270C.40 or 549.09 are from time to time adjusted. Loans or advances may be structured
7.9 as draw-down or line-of-credit obligations of the lending fund.

7.10 (e) The authority shall report in the annual report submitted pursuant to section
7.11 469.175, subdivision 6:

7.12 (1) the amount of any interfund loan or advance made in a calendar year; and

7.13 (2) any amendment of an interfund loan or advance made in a calendar year.

7.14 (f) The provisions of this subdivision do not apply to an interfund loan or advance
7.15 made by a municipality or an authority for any: (1) administrative expenses; (2) planning,
7.16 inspection, architectural, engineering, surveying, and soil testing expenses, or similar costs
7.17 that are incurred before establishing a tax increment financing district; or (3) transfers
7.18 made in anticipation of a negative cash balance in a fund that does not exceed 12 months.

7.19 **EFFECTIVE DATE.** This section is effective the day following final enactment
7.20 and applies to all districts, regardless of when the request for certification was made.