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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 2739

03/06/2014 Authored by Fabian, Kiel, McNamar, Gunther and Lien
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; providing use for certain workforce
1.3 housing; amending Minnesota Statutes 2012, sections 462A.33, subdivision
1.4 3; 469.174, subdivision 12; 469.175, subdivision 3; 469.176, subdivision 1b;
1.5 469.1761, by adding a subdivision; Minnesota Statutes 2013 Supplement, section
1.6 469.176, subdivision 4c.

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

1.8 Section 1. Minnesota Statutes 2012, section 462A.33, subdivision 3, is amended to read:

1.9 Subd. 3. **Contribution requirement.** Fifty percent of the funds appropriated for
1.10 this section must be used for challenge grants or loans for housing proposals with financial
1.11 or in-kind contributions from nonstate resources that reduce the need for deferred loan or
1.12 grant funds from state resources. Challenge grants or loans must be used for economically
1.13 viable homeownership or rental housing proposals that address the housing needs of
1.14 the local work force.

1.15 Among comparable proposals, preference must be given to proposals that include
1.16 contributions from nonstate resources for the greatest portion of the total development
1.17 cost. Comparable proposals with contributions from local units of government or private
1.18 philanthropic, religious, or charitable organizations must be given preference in awarding
1.19 grants or loans.

1.20 For the purpose of this subdivision, a contribution may consist partially or wholly
1.21 of the premium paid for federal housing tax credits or of the provision of tax increment
1.22 financing to the project.

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

1.24 Sec. 2. Minnesota Statutes 2012, section 469.174, subdivision 12, is amended to read:

2.1 Subd. 12. **Economic development district.** "Economic development district"
 2.2 means a type of tax increment financing district which consists of any project, or portions
 2.3 of a project, which the authority finds to be in the public interest because:

2.4 (1) it will discourage commerce, industry, or manufacturing from moving their
 2.5 operations to another state or municipality; ~~or~~

2.6 (2) it will result in increased employment in the state; ~~or~~

2.7 (3) it will result in preservation and enhancement of the tax base of the state; or

2.8 (4) it satisfies the requirements of a workforce housing project under section
 2.9 469.176, subdivision 4c, paragraph (e) or (f).

2.10 **EFFECTIVE DATE.** This section is effective for districts for which the request for
 2.11 certification is made after June 30, 2014.

2.12 Sec. 3. Minnesota Statutes 2012, section 469.175, subdivision 3, is amended to read:

2.13 Subd. 3. **Municipality approval.** (a) A county auditor shall not certify the original
 2.14 net tax capacity of a tax increment financing district until the tax increment financing plan
 2.15 proposed for that district has been approved by the municipality in which the district
 2.16 is located. If an authority that proposes to establish a tax increment financing district
 2.17 and the municipality are not the same, the authority shall apply to the municipality in
 2.18 which the district is proposed to be located and shall obtain the approval of its tax
 2.19 increment financing plan by the municipality before the authority may use tax increment
 2.20 financing. The municipality shall approve the tax increment financing plan only after a
 2.21 public hearing thereon after published notice in a newspaper of general circulation in the
 2.22 municipality at least once not less than ten days nor more than 30 days prior to the date
 2.23 of the hearing. The published notice must include a map of the area of the district from
 2.24 which increments may be collected and, if the project area includes additional area, a map
 2.25 of the project area in which the increments may be expended. The hearing may be held
 2.26 before or after the approval or creation of the project or it may be held in conjunction with
 2.27 a hearing to approve the project.

2.28 (b) Before or at the time of approval of the tax increment financing plan, the
 2.29 municipality shall make the following findings, and shall set forth in writing the reasons
 2.30 and supporting facts for each determination:

2.31 (1) that the proposed tax increment financing district is a redevelopment district, a
 2.32 renewal or renovation district, a housing district, a soils condition district, or an economic
 2.33 development district; if the proposed district is a redevelopment district or a renewal or
 2.34 renovation district, the reasons and supporting facts for the determination that the district
 2.35 meets the criteria of section 469.174, subdivision 10, paragraph (a), clauses (1) and (2), or

3.1 subdivision 10a, must be documented in writing and retained and made available to the
3.2 public by the authority until the district has been terminated;

3.3 (2) that, in the opinion of the municipality:

3.4 (i) the proposed development or redevelopment would not reasonably be expected to
3.5 occur solely through private investment within the reasonably foreseeable future; and

3.6 (ii) the increased market value of the site that could reasonably be expected to occur
3.7 without the use of tax increment financing would be less than the increase in the market
3.8 value estimated to result from the proposed development after subtracting the present
3.9 value of the projected tax increments for the maximum duration of the district permitted
3.10 by the plan. The requirements of this item do not apply if the district is a housing district;

3.11 (3) that the tax increment financing plan conforms to the general plan for the
3.12 development or redevelopment of the municipality as a whole;

3.13 (4) that the tax increment financing plan will afford maximum opportunity,
3.14 consistent with the sound needs of the municipality as a whole, for the development or
3.15 redevelopment of the project by private enterprise;

3.16 (5) that the municipality elects the method of tax increment computation set forth in
3.17 section 469.177, subdivision 3, paragraph (b), if applicable.

3.18 (c) When the municipality and the authority are not the same, the municipality shall
3.19 approve or disapprove the tax increment financing plan within 60 days of submission by the
3.20 authority. When the municipality and the authority are not the same, the municipality may
3.21 not amend or modify a tax increment financing plan except as proposed by the authority
3.22 pursuant to subdivision 4. Once approved, the determination of the authority to undertake
3.23 the project through the use of tax increment financing and the resolution of the governing
3.24 body shall be conclusive of the findings therein and of the public need for the financing.

3.25 (d) For a district that is subject to the requirements of paragraph (b), clause (2),
3.26 item (ii), the municipality's statement of reasons and supporting facts must include all of
3.27 the following:

3.28 (1) an estimate of the amount by which the market value of the site will increase
3.29 without the use of tax increment financing;

3.30 (2) an estimate of the increase in the market value that will result from the
3.31 development or redevelopment to be assisted with tax increment financing; and

3.32 (3) the present value of the projected tax increments for the maximum duration of
3.33 the district permitted by the tax increment financing plan.

3.34 (e) For purposes of this subdivision, "site" means the parcels on which the
3.35 development or redevelopment to be assisted with tax increment financing will be located.

4.1 (f) Before or at the time of approval of the tax increment financing plan for a district
4.2 to be used to fund a workforce housing project under section 469.176, subdivision 4c,
4.3 paragraph (d), the municipality shall make the following findings and shall set forth in
4.4 writing the reasons and supporting facts for each determination:

4.5 (1) the unemployment rate for the county is equal to or less than 90 percent of the
4.6 statewide unemployment rate for the most recent year for which data is available;

4.7 (2) the percentage of adults aged 16 to 64 in the county who are employed exceeds
4.8 80 percent for the most recently available reporting period using data from the United
4.9 States Bureau of the Census or that the city is located outside of the metropolitan area,
4.10 as defined in section 473.121, subdivision 2, and has a residential postsecondary student
4.11 population equal to or greater than ten percent of its total population;

4.12 (3) the average vacancy rate for rental housing located in the municipality and in any
4.13 statutory or home rule charter city located within 15 miles or less of the boundaries of the
4.14 municipality has been five percent or less for at least a two year period;

4.15 (4) one or more businesses located in the municipality or within 15 miles of the
4.16 municipality that employ a minimum of 20 full-time equivalent employees in aggregate
4.17 have provided a written statement to the municipality indicating that the lack of available
4.18 rental housing has impeded their ability to recruit and hire employees; and

4.19 (5) the municipality and the development authority intend to use increments from
4.20 the district for the development of rental housing to serve employees of businesses located
4.21 in the municipality or surrounding area.

4.22 (g) Before or at the time of approval of the tax increment financing plan for a district to
4.23 be used to fund a project to address a chronic shortage of workforce housing under section
4.24 469.176, subdivision 4c, paragraph (e), the municipality shall make the following findings
4.25 and shall set forth in writing the reasons and supporting facts for each determination:

4.26 (1) each of the findings required for a project qualifying under paragraph (f);

4.27 (2) the city's population exceeds 1,500;

4.28 (3) the city is located outside of the metropolitan area, as defined in section 473.121,
4.29 subdivision 2; and

4.30 (4) fewer than five market rate residential units per 1,000 residents were constructed
4.31 in the city in each of the last ten years.

4.32 For purposes of this paragraph, "market rate residential units" excludes (i) residential
4.33 units constructed with financial assistance requiring the unit to be occupied by residents
4.34 that meet income limits under federal or state law of initial occupancy and (ii) residential
4.35 units constructed with federal, state, or local flood recovery assistance, regardless of
4.36 whether that assistance imposed income limits as a condition of receiving assistance.

5.1 **EFFECTIVE DATE.** This section is effective for districts for which the request for
5.2 certification is made after June 30, 2014.

5.3 Sec. 4. Minnesota Statutes 2012, section 469.176, subdivision 1b, is amended to read:

5.4 Subd. 1b. **Duration limits; terms.** (a) No tax increment shall in any event be
5.5 paid to the authority:

5.6 (1) after 15 years after receipt by the authority of the first increment for a renewal
5.7 and renovation district;

5.8 (2) after 20 years after receipt by the authority of the first increment for a soils
5.9 condition district;

5.10 (3) after eight years after receipt by the authority of the first increment for an
5.11 economic development district or after 25 years after receipt by the authority of the first
5.12 increment for an economic development district that is used for a project to address a
5.13 chronic shortage of workforce housing under subdivision 4c, paragraph (e);

5.14 (4) for a housing district, a compact development district, or a redevelopment
5.15 district, after 25 years from the date of receipt by the authority of the first increment.

5.16 (b) For purposes of determining a duration limit under this subdivision or subdivision
5.17 1e that is based on the receipt of an increment, any increments from taxes payable in the year
5.18 in which the district terminates shall be paid to the authority. This paragraph does not affect
5.19 a duration limit calculated from the date of approval of the tax increment financing plan or
5.20 based on the recovery of costs or to a duration limit under subdivision 1c. This paragraph
5.21 does not supersede the restrictions on payment of delinquent taxes in subdivision 1f.

5.22 (c) An action by the authority to waive or decline to accept an increment has no
5.23 effect for purposes of computing a duration limit based on the receipt of increment under
5.24 this subdivision or any other provision of law. The authority is deemed to have received an
5.25 increment for any year in which it waived or declined to accept an increment, regardless
5.26 of whether the increment was paid to the authority.

5.27 (d) Receipt by a hazardous substance subdistrict of an increment as a result of a
5.28 reduction in original net tax capacity under section 469.174, subdivision 7, paragraph
5.29 (b), does not constitute receipt of increment by the overlying district for the purpose of
5.30 calculating the duration limit under this section.

5.31 **EFFECTIVE DATE.** This section is effective for districts for which the request for
5.32 certification is made after June 30, 2014.

5.33 Sec. 5. Minnesota Statutes 2013 Supplement, section 469.176, subdivision 4c, is
5.34 amended to read:

6.1 Subd. 4c. **Economic development districts.** (a) Revenue derived from tax increment
 6.2 from an economic development district may not be used to provide improvements, loans,
 6.3 subsidies, grants, interest rate subsidies, or assistance in any form to developments
 6.4 consisting of buildings and ancillary facilities, if more than 15 percent of the buildings and
 6.5 facilities (determined on the basis of square footage) are used for a purpose other than:

6.6 (1) the manufacturing or production of tangible personal property, including
 6.7 processing resulting in the change in condition of the property;

6.8 (2) warehousing, storage, and distribution of tangible personal property, excluding
 6.9 retail sales;

6.10 (3) research and development related to the activities listed in clause (1) or (2);

6.11 (4) telemarketing if that activity is the exclusive use of the property;

6.12 (5) tourism facilities; ~~or~~

6.13 (6) space necessary for and related to the activities listed in clauses (1) to (5); or

6.14 (7) a workforce housing project that satisfies the requirements of paragraph (d) or (e).

6.15 (b) Notwithstanding the provisions of this subdivision, revenues derived from tax
 6.16 increment from an economic development district may be used to provide improvements,
 6.17 loans, subsidies, grants, interest rate subsidies, or assistance in any form for up to 15,000
 6.18 square feet of any separately owned commercial facility located within the municipal
 6.19 jurisdiction of a small city, if the revenues derived from increments are spent only to
 6.20 assist the facility directly or for administrative expenses, the assistance is necessary to
 6.21 develop the facility, and all of the increments, except those for administrative expenses,
 6.22 are spent only for activities within the district.

6.23 (c) A city is a small city for purposes of this subdivision if the city was a small city
 6.24 in the year in which the request for certification was made and applies for the rest of
 6.25 the duration of the district, regardless of whether the city qualifies or ceases to qualify
 6.26 as a small city.

6.27 (d) A project qualifies as a workforce housing project under this subdivision
 6.28 if tax increments from the district are used exclusively to assist in the acquisition of
 6.29 property, construction of improvements, provision of loans or subsidies, grants, interest
 6.30 rate subsidies, public infrastructure, and related financing costs for rental housing
 6.31 developments in the municipality and the governing body of the municipality made the
 6.32 findings for the project required by section 469.175, subdivision 3, paragraph (f).

6.33 (e) A project qualifies as a project to address a chronic shortage of workforce housing
 6.34 under this subdivision if tax increments from the district are used exclusively to assist in
 6.35 the acquisition of property, construction of improvements, provision of loans or subsidies,
 6.36 grants, interest rate subsidies, public infrastructure, and related financing costs for rental

7.1 housing developments in the municipality and the governing body of the municipality
7.2 made the findings for the project required by section 469.175, subdivision 3, paragraph (g).

7.3 **EFFECTIVE DATE.** This section is effective for districts for which the request for
7.4 certification is made after June 30, 2014.

7.5 Sec. 6. Minnesota Statutes 2012, section 469.1761, is amended by adding a subdivision
7.6 to read:

7.7 Subd. 5. **Income limits; Minnesota Housing Finance Agency challenge program.**

7.8 For a project receiving a loan or grant from the Minnesota Housing Finance Agency
7.9 challenge program under section 462A.33, the income limits under section 462A.33 are
7.10 substituted for the applicable income limits under subdivision 2 or 3 for the project.

7.11 **EFFECTIVE DATE.** This section is effective for tax increment financing districts
7.12 for which the request for certification is made after June 30, 2014.