

needed to protect all the citizens, in a manner which is intended to pay the cost without thereby raising materially the level of current home energy costs of either the owners of the premises or other utility customers.

Sec. 3. Laws 1981, chapter 223, section 6, subdivision 3, is amended to read:

Subd. 3. **GENERAL POWERS.** Notwithstanding the provisions of subdivision 2, the city is authorized to do all things determined on the advice of counsel to be necessary or desirable to assure that any issue of revenue bonds or notes hereunder, if subject to section 103A or section 103(b)(4)(A) of the Internal Revenue Code of 1954, as amended, will be a qualified mortgage bond issue or will provide projects for residential rental property as described therein, ~~the interest on which through the performance of conditions necessary to assure that the interest will be and remain exempt from federal income taxation.~~ Until and unless it is determined by a clarifying amendment of section 103A of the Internal Revenue Code of 1954, as amended, or by rulings or regulations of the internal revenue service or a decision of a court of competent jurisdiction, that such issues are not mortgage subsidy bonds, the applicable limit established pursuant to section 103A of the Internal Revenue Code of 1954, as amended, upon the amount of qualified mortgage bonds which the city may issue in any calendar year, shall be \$3,000,000.

Sec. 4. **EFFECTIVE DATE.**

This act is effective upon compliance by the governing body of the city of Duluth with Minnesota Statutes, section 645.021, subdivision 3.

Approved April 26, 1984

**CHAPTER 582 — H.F.No. 2186**

*An act relating to public finance; authorizing the levy of special assessments or service charges for fire protection and pedestrian skyway systems; providing for allocation of federal authority to issue certain state and local obligations; amending Minnesota Statutes 1982, sections 116J.58, by adding a subdivision; 273.77; 429.021, subdivision 1; 429.031, subdivision 3; 429.091, subdivision 2, and by adding a subdivision; 429.101, subdivision 1; 430.12; and 472.09, by adding a subdivision; proposing new law coded in Minnesota Statutes, chapters 458; 459; 462; 474; and 475.*

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

Section 1. Minnesota Statutes 1982, section 116J.58, is amended by adding a subdivision to read:

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Subd. 4. FEDERAL LIMITATION ACT ALLOCATION. The commissioner shall:

(1) in accordance with sections 13 to 20, review applications for and grant allocations of authority to issue bonds or other obligations subject to a federal limitation act; and

(2) adopt rules, including temporary rules under sections 14.29 to 14.36, to provide for the allocation of the amount of issuance authority allocated pursuant to section 11, subdivision 3. The rules shall contain criteria and procedures for allocation of authority for use by the department, and to other state agencies, political subdivisions, or other authorities authorized by other law to issue bonds subject to a federal limitation act.

For the purposes of this subdivision, a "federal limitation act" is an act of congress defined in section 13, subdivision 5.

Sec. 2. Minnesota Statutes 1982, section 273.77, is amended to read:

**273.77 TAX INCREMENT BONDING.**

Any other law, general or special, notwithstanding, after August 1, 1979 no bonds, payment for which tax increment is pledged, shall be issued in connection with any project for which tax increment financing has been undertaken other than as is authorized hereby and the proceeds therefrom shall be used only in accordance with section 273.75, subdivision 4 as if said proceeds were tax increment, except that a tax increment financing plan need not be adopted for any project for which tax increment financing has been undertaken prior to August 1, 1979, pursuant to statutes not requiring a tax increment financing plan. Such bonds shall not be included for purposes of computing the net debt of any municipality.

(a) A municipality may issue general obligation bonds to finance any expenditure by the municipality or an authority the jurisdiction of which is wholly or partially within that municipality, pursuant to section 273.75, subdivision 4 in the same manner and subject only to the same conditions as those provided in chapter 475 for bonds financing improvement costs reimbursable from special assessments. Any pledge of tax increment, assessments or other revenues for the payment of the principal of and interest on general obligation bonds issued under this subdivision, except when the authority and the municipality are the same, shall be made by written agreement by and between the authority and the municipality and filed with the county auditor. When the authority and the municipality are the same, the municipality may by covenant pledge tax increment, assessments or other revenues for the payment of the principal of and interest on general obligation bonds issued under this subdivision and thereupon shall file the resolution containing such covenant with the county auditor. When tax increment, assessments and other revenues are pledged, the estimated collections of said tax increment, assessments and any other revenues

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so pledged may be deducted from the taxes otherwise required to be levied before the issuance of the bonds under section 475.61, subdivision 1, or the collections thereof may be certified annually to reduce or cancel the initial tax levies in accordance with section 475.61, subdivision 1 or 3.

(b) When the authority and the municipality are not the same, an authority may, by resolution, authorize, issue and sell its general obligation bonds to finance any expenditure which that authority is authorized to make by section 273.75, subdivision 4. Said bonds of the authority shall be authorized by its resolution, shall mature as determined by resolution of the authority in accordance with Laws 1979, Chapter 322, and may be issued in one or more series and shall bear such date or dates, bear interest at such rate or rates, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in medium of payment at such place or places, and be subject to such terms of redemption, with or without premium, as such resolution, its trust indenture or mortgage may provide. The bonds may be sold at public or private sale at the price or prices as the authority by resolution shall determine, and any provision of any law to the contrary notwithstanding, the bonds shall be fully negotiable. In any suit, actions, or proceedings involving the validity of enforceability of any bonds of the authority or the security therefor, any bond reciting in substance that it has been issued by the authority to aid in financing a project shall be conclusively deemed to have been issued for such purpose, and the tax increment financing district within the project shall be conclusively deemed to have been planned, located, and carried out in accordance with the purposes and provisions of Laws 1979, Chapter 322. Neither the authority, nor any director, commissioner, council member, board member, officer, employee or agent of the authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds of the authority, and such bonds shall so state on their face, shall not be a debt of any municipality, the state or any political subdivision thereof, and neither the municipality nor the state or any political subdivision thereof shall be liable thereon, nor in any event shall such bonds be payable out of any funds or properties other than those of the authority and any tax increment and revenues of a tax increment financing district pledged therefor.

(c) Notwithstanding any other law general or special, an authority may, by resolution, authorize, issue and sell revenue bonds payable solely from all or a portion of revenues, including but not limited to tax increment revenues and assessments, derived from a tax increment financing district located wholly or partially within the municipality to finance any expenditure which the authority is authorized to make by section 273.75, subdivision 4. The bonds shall mature as determined by resolution of the authority in accordance with Laws 1979, Chapter 322 and may be issued in one or more series and shall bear such date or dates, bear interest at such rate or rates, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration

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privileges, have such rank or priority, be executed in such manner, be payable in medium of payment at such place or places, and be subject to such terms of redemption, with or without premium, as such resolution, its trust indenture or mortgage may provide. The bonds may be sold at public or private sale at the price or prices as the authority by resolution shall determine, and any provision of any law to the contrary notwithstanding, shall be fully negotiable. In any suit, action, or proceedings involving the validity or enforceability of any bonds of the authority or the security therefor, any bond reciting in substance that it has been issued by the authority to aid in financing a project shall be conclusively deemed to have been issued for such purpose, and the tax increment financing district within the project shall be conclusively deemed to have been planned, located, and carried out in accordance with the purposes and provisions of Laws 1979, Chapter 322. Neither the authority, nor any director, commissioner, council member, board member, officer, employee or agent of the authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds may be further secured by a pledge and mortgage of all or any portion of the district in aid of which the bonds are issued and such covenants as the authority shall deem by such resolution to be necessary and proper to secure payment of the bonds. The bonds, and the bonds shall so state on their face, shall not be payable from nor charged upon any funds other than the revenues and property pledged or mortgaged to the payment thereof, nor shall the issuing authority be subject to any liability thereon or have the powers to obligate itself to pay or pay the bonds from funds other than the revenues and properties pledged and mortgaged and no holder or holders of the bonds shall ever have the right to compel any exercise of any taxing power of the issuing authority or any other public body, other than as is permitted or required under Laws 1979, Chapter 322 and pledged therefor hereunder, to pay the principal of or interest on any such bonds, nor to enforce payment thereof against any property of the authority or other public body other than that expressly pledged or mortgaged for the payment thereof.

(d) (1) In anticipation of the issuance of bonds pursuant to either paragraph (a), (b) or (c) of this section, the authority or municipality may by resolution issue and sell temporary bonds pursuant to paragraph (a), (b) or (c), maturing within not more than three years from their date of issue, to pay any part or all of the cost of a project. To the extent that the principal of and interest on the temporary bonds cannot be paid when due from receipts of tax increment, assessments, or other funds appropriated for the purpose, they shall be paid from the proceeds of long-term bonds or additional temporary bonds which the authority or municipality shall offer for sale in advance of the maturity date of the temporary bonds, but the indebtedness funded by an issue of temporary bonds shall not be extended by the issue of additional temporary bonds for more than six years from the date of the first issue. Long-term bonds may be issued pursuant to paragraph (a), (b) or (c) without regard to whether the temporary bonds were issued pursuant to paragraph (a), (b) or (c). If general obligation

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temporary bonds are issued pursuant to paragraph (a), proceeds of long-term bonds or additional temporary bonds not yet sold may be treated as pledged revenues, in reduction of the tax otherwise required by section 475.61 to be levied prior to delivery of the obligations. Subject to the six-year maturity limitation contained above, but without regard to the requirement of section 475.58, if any temporary bonds are not paid in full at maturity, in addition to any other remedy authorized or permitted by law, the holders may demand, in which case the authority or municipality shall, issue pursuant to paragraph (a), (b) or (c) as the temporary bonds and in exchange for the temporary bonds, at par, replacement temporary bonds dated as of the date of the replaced temporary bonds, maturing within one year from the date of the replacement temporary bonds and earning interest at the rate set forth in the resolution authorizing the issuance of the replaced temporary bonds, provided that the rate shall not exceed the maximum rate permitted by law at the date of issue of the replaced temporary bonds.

(2) Funds of a municipality may be invested in its temporary bonds in accordance with the provisions of section 471.56, and may be purchased upon their initial issue, but shall be purchased only from funds which the governing body of the municipality determines will not be required for other purposes before the maturity date, and shall be resold before maturity only in case of emergency. If purchased from a debt service fund securing other bonds, the holders of those bonds may enforce the municipality's obligations on the temporary bonds in the same manner as if they held the temporary bonds.

(e) Sections 13 to 20 apply to any issuance of obligations under this section which are subject to limitation under a federal limitation act as defined in section 13, subdivision 5.

Sec. 3. Minnesota Statutes 1982, section 429.021, subdivision 1, is amended to read:

Subdivision 1. **IMPROVEMENTS AUTHORIZED.** The council of a municipality shall have power to make the following improvements:

(1) To acquire, open, and widen any street, and to improve the same by constructing, reconstructing, and maintaining sidewalks, pavement, gutters, curbs, and vehicle parking strips of any material, or by grading, graveling, oiling, or otherwise improving the same, including the beautification thereof and including storm sewers or other street drainage and connections from sewer, water or similar mains to curb lines.

(2) To acquire, develop, construct, reconstruct, extend and maintain storm and sanitary sewers and systems, including outlets, holding areas and ponds, treatment plants, pumps, lift stations, service connections, and other appurtenances of a sewer system, within and without the corporate limits.

(3) To construct, reconstruct, extend and maintain steam heating mains.

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(4) To install, replace, extend and maintain street lights and street lighting systems and special lighting systems.

(5) To acquire, improve, construct, reconstruct, extend and maintain water works systems, including mains, valves, hydrants, service connections, wells, pumps, reservoirs, tanks, treatment plants, and other appurtenances of a water works system, within and without the corporate limits.

(6) To acquire, improve and equip parks, open space areas, playgrounds and recreational facilities within or without the corporate limits.

(7) To plant trees on streets and provide for their trimming, care and removal.

(8) To abate nuisances and to drain swamps, marshes and ponds on public or private property and to fill the same.

(9) To construct, reconstruct, extend, and maintain dikes and other flood control works.

(10) To construct, reconstruct, extend and maintain retaining walls and area walls.

(11) To acquire, construct, reconstruct, improve, alter, extend, operate, maintain and promote a pedestrian skyway system. Such improvement may be made upon a petition pursuant to section 429.031, subdivision 3.

(12) To acquire, construct, reconstruct, extend, operate, maintain and promote underground pedestrian concourses.

(13) To acquire, construct, improve, alter, extend, operate, maintain and promote public malls, plazas or courtyards.

(14) To construct, reconstruct, extend, and maintain district heating systems.

(15) To construct, reconstruct, alter, extend, operate, maintain and promote fire protection systems in existing buildings, but only upon a petition pursuant to section 429.031, subdivision 3.

Sec. 4. Minnesota Statutes 1982, section 429.031, subdivision 3, is amended to read:

Subd. 3. **PETITION BY ALL OWNERS.** Whenever all owners of real property abutting upon any street named as the location of any improvement shall petition the council to construct the improvement and to assess the entire cost against their property, the council may, without a public hearing, adopt a resolution determining such fact and ordering the improvement. The validity of the resolution shall not be questioned by any taxpayer or property owner or the municipality unless an action for that purpose is commenced within 30 days after adoption of the resolution as provided in section 429.036. Nothing herein

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prevents any property owner from questioning the amount or validity of the special assessment against his property pursuant to section 429.081. In the case of a petition for the installation of a fire protection or a pedestrian skyway system, the petition must contain or be accompanied by an undertaking satisfactory to the city by the petitioner that the petitioner will grant the municipality the necessary property interest in the building to permit the city to enter upon the property and the building to construct, maintain, and operate the fire protection or pedestrian skyway system. In the case of a petition for the installation of a fire protection or pedestrian skyway system which will be privately owned, the petition shall also contain the plans and specifications for the improvement, the estimated cost of the improvement and a statement indicating whether the city or the owner will contract for the construction of the improvement. If the owner is contracting for the construction of the improvement, the city shall not approve the petition until it has reviewed and approved the plans, specifications, and cost estimates contained in the petition. The construction cost financed under section 429.091 shall not exceed the amount of the cost estimate contained in the petition. In the case of a petition for the installation of a fire protection or a pedestrian skyway system, the petitioner may request abandonment of the improvement at any time after it has been ordered pursuant to subdivision 1 and before contracts have been awarded for the construction of the improvement under section 429.041, subdivision 2. If such a request is received, the city council shall abandon the proceedings but in such case the petitioner shall reimburse the city for any and all expenses incurred by the city in connection with the improvement.

Sec. 5. Minnesota Statutes 1982, section 429.091, subdivision 2, is amended to read:

Subd. 2. **TYPES OF OBLIGATIONS PERMITTED.** The council may by resolution adopted prior to the sale of obligations pledge the full faith, credit, and taxing power of the municipality for the payment of the principal and interest. Such obligations shall be called improvement bonds and the council shall pay the principal and interest out of any fund of the municipality when the amount credited to the specified fund is insufficient for the purpose and shall each year levy a sufficient amount to take care of accumulated or anticipated deficiencies, which levy shall not be subject to any statutory or charter tax limitation. Obligations for the payment of which the full faith and credit of the municipality is not pledged shall be called improvement warrants or, in the case of bonds for fire protection or pedestrian skyway systems, revenue bonds and shall contain a promise to pay solely out of the proper special fund or funds pledged to their payment. It shall be the duty of the municipal treasurer to pay maturing principal and interest on warrants or revenue bonds out of funds on hand in the proper special fund funds and not otherwise.

Sec. 6. Minnesota Statutes 1982, section 429.091, is amended by adding a subdivision to read:

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Subd. 8. FEDERAL LIMITATION ACT. Sections 13 to 20 apply to any issuance of obligations under this section which are subject to limitation under a federal limitation act as defined in section 13, subdivision 5.

Sec. 7. Minnesota Statutes 1982, section 429.101, subdivision 1, is amended to read:

Subdivision 1. **ORDINANCES.** In addition to any other method authorized by law or charter, the governing body of any municipality may provide for the collection of unpaid special charges for all or any part of the cost of

(a) snow, ice, or rubbish removal from sidewalks,

(b) weed elimination from streets or private property,

(c) removal or elimination of public health or safety hazards from private property, excluding any structure included under the provisions of sections 463.15 to 463.26,

(d) installation or repair of water service lines, street sprinkling or other dust treatment of streets,

(e) the trimming and care of trees and the removal of unsound trees from any street,

(f) the treatment and removal of insect infested or diseased trees on private property, the repair of sidewalks and alleys, or

(g) the operation of a street lighting system, or

(h) the operation and maintenance of a fire protection or a pedestrian skyway system,

as a special assessment against the property benefited. The council may by ordinance adopt regulations consistent with this section to make this authority effective, including, at the option of the council, provisions for placing primary responsibility upon the property owner or occupant to do the work himself (except in the case of street sprinkling or other dust treatment, alley repair, tree trimming, care, and removal or the operation of a street lighting system) upon notice before the work is undertaken, and for collection from the property owner or other person served of the charges when due before unpaid charges are made a special assessment.

Sec. 8. Minnesota Statutes 1982, section 430.12, is amended to read:

**430.12 BONDS FOR IMPROVEMENTS.**

The city council, for the purpose of realizing the funds for making an improvement and paying damages may, from time to time as may be needed, issue and sell special certificates of indebtedness, or special street or parkway improvement bonds, as they may decide, which shall entitle the holder thereof to

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all sums realized upon any assessment or, if deemed advisable, a series of two or more certificates or bonds against any one assessment, or against the assessments in two or more different proceedings, the principal and interest being payable at fixed dates out of the funds collected from the assessments, including interest and penalties, and the whole of the fund or funds is hereby pledged for the pro rata payment of the certificates or bonds and the interest thereon, as they severally become due. These certificates or bonds may be made payable to the bearer, with interest coupons attached, and the city council may bind the city to make good deficiencies in the collection up to, but not exceeding, the principal and interest at the rate fixed, as hereinafter provided, and for the time specified in section 430.06. If the city, because of this guaranty, shall redeem any certificate or bond, it shall thereupon be subrogated to the holder's rights. For the purpose of this guaranty, penalties collected shall be credited upon deficiencies of principal and interest before the city shall be liable. These certificates or bonds shall be sold at public sale or by sealed proposals at a meeting of which at least two weeks' published notice shall be given, to the purchaser who will pay the par value thereof at the lowest interest rate, and the certificates or bonds shall be drawn accordingly, but the rate of interest shall in no case exceed seven percent per annum, payable annually or semiannually. The city clerk shall certify to the county auditor the rate of interest so determined at the first bond sale held for any such improvement, and interest shall be computed upon the assessments at this annual rate, in accordance with the terms of section 430.06. In case the rate of interest so determined at any subsequent bond sale for the same improvement is greater than the rate so determined at the first bond sale therefor, the difference between these rates of interest shall be a general city charge.

In case the proceeds of any special certificates of indebtedness or special street or parkway improvement bonds are in excess of the amount actually necessary to make the improvements for which the same were issued, or in case the proceeds are not immediately required for the prosecution or completion of the improvement, these proceeds may meanwhile be used by the city council for the making of other improvements authorized under the provisions of this chapter, and the amount of the proceeds so used shall be replaced and made good so far as may be necessary from the proceeds of special certificates of indebtedness or special bonds issued for the purpose of making such other improvements.

Sections 13 to 20 apply to any issuance of obligations under this section which are subject to limitation under a federal limitation act as defined in section 13, subdivision 5.

**Sec. 9. [458.1941] FEDERAL LIMITATION ACT.**

Sections 13 to 20 apply to any issuance of obligations under chapter 458 which are subject to limitation under a federal limitation act as defined in section 13, subdivision 5.

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**Sec. 10. [459.35] FEDERAL LIMITATION ACT.**

Sections 13 to 20 apply to any issuance of obligations under chapter 459 which are subject to limitation under a federal limitation act as defined in section 13, subdivision 5.

**Sec. 11. [462.556] FEDERAL LIMITATION ACT.**

Sections 13 to 20 apply to any issuance of obligations under chapter 462 which are subject to limitation under a federal limitation act as defined in section 13, subdivision 5.

Sec. 12. Minnesota Statutes 1982, section 472.09, is amended by adding a subdivision to read:

Subd. 8. FEDERAL LIMITATION ACT. Sections 13 to 20 apply to any issuance of obligations under this section which are subject to limitation under a federal limitation act as defined in section 13, subdivision 5.

**Sec. 13. [474.16] DEFINITIONS.**

Subdivision 1. For the purposes of sections 13 to 20, the terms defined in this section have the meaning given them.

Subd. 2. "Local issuer" means any home rule charter or statutory city, any town, any housing and redevelopment authority referred to in chapter 462 or any body authorized to exercise the powers of a housing and redevelopment authority, any port authority referred to in chapter 458 or any body authorized to exercise the powers of a port authority, any area or municipal redevelopment agency referred to in chapter 472, any county, or any other municipal authority or agency established pursuant to special law other than the iron range resources and rehabilitation board, acting as an issuer of obligations pursuant to law.

Subd. 3. "Entitlement issuer" means a local issuer with an average annual previous use of \$1,000,000 or more based on the highest annual use in three of the calendar years from 1980 to 1983.

Subd. 4. "Previous use" means the principal amount of obligations of a type subject to limitation under the terms of a federal limitation act issued by a local issuer during a specified period. Prior to enactment by Congress of the United States of America of a federal limitation act, "previous use" means the principal amount of obligations of a type subject to limitation under the terms of section 721 of the Tax Reform Bill of 1984, H.R. 4170, as reported by the Ways and Means Committee of the United States House of Representatives on March 5, 1984, issued by a local issuer during a specified period.

Subd. 5. "Federal limitation act" means an act of congress of the United States of America other than the Mortgage Subsidy Bond Tax Act of 1980, Public Law Number 96-499, section 1102(a) and amendments to it, amending the Internal Revenue Code of 1954, to limit the aggregate amount of obligations of a specified type or types which may be issued by an issuing authority during any

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calendar year whose interest is exempt from inclusion in gross income for purposes of federal income taxation pursuant to section 103(a) of the Internal Revenue Code of 1954, as amended, and providing for an allocation of issuing authority by the legislature of a state.

Sec. 14. [474.17] **ALLOCATION OF PRIVATE ACTIVITY BONDS.**

**Subdivision 1. HIGHER EDUCATION COORDINATING BOARD ALLOCATION.** \$30,000,000 for calendar year 1984 and \$10,000,000 for calendar year 1985 of the aggregate limit of bond issuance authority allocated to the state pursuant to a federal limitation act is allocated to the higher education coordinating board for the issuance of obligations pursuant to chapter 136A. On September 1, 1985, any unused portion of the bonding authority allocated to the higher education coordinating board shall be canceled and the authority shall be allocated pursuant to section 16. If the commissioner of energy and economic development determines that pursuant to a federal limitation act, the higher education coordinating board cannot issue obligations whose interest is exempt from inclusion in gross income for purposes of federal income taxation pursuant to section 103(a) of the Internal Revenue Code of 1954, as amended, this allocation shall cancel and the allocation provided in subdivision 3 shall be increased to \$55,000,000 for calendar year 1984 and to \$65,000,000 for calendar year 1985.

**Subd. 2. IRON RANGE RESOURCES AND REHABILITATION ALLOCATION.** From January 1 to August 31 of each calendar year, \$25,000,000 of the aggregate limit of bond issuance authority allocated to the state for any calendar year pursuant to a federal limitation act is allocated to the iron range resources and rehabilitation commissioner. From September 1 to October 31 of each year, the iron range resources and rehabilitation commissioner may retain his allocation or a portion of it only if he has submitted to the department of energy and economic development on or before September 1 a letter which states (a) his intent to issue obligations pursuant to his allocation or a portion of it before the end of the calendar year or within the time period permitted by a federal limitation act and (b) a description of the specific project or projects for which the obligations will be issued, together with an application deposit in the amount of one percent of the amount of the remaining unused allocation or the portion of it pursuant to which he intends to issue obligations. If the iron range resources and rehabilitation commissioner does not submit the required letter of intent and the application deposit, the amount originally allocated to the iron range resources and rehabilitation commissioner or the portion not already used not subject to a letter of intent shall be canceled and subject to reallocation in accordance with section 16. If the iron range resources and rehabilitation commissioner returns for reallocation all or any part of his allocation on or before October 31, that portion of his application deposit equal to one percent of the amount returned shall be refunded within 30 days. The iron range resources and rehabilitation commissioner may enter into a joint

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powers agreement with any other state or municipal entity which has authority to issue obligations subject to a federal limitation act whereby the other entity issues the bonds on behalf of the iron range resources and rehabilitation commissioner.

**Subd. 3. DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT ALLOCATION.** From January 1 to August 31 of calendar year 1984, \$40,000,000 and for calendar year 1985 \$60,000,000 of the aggregate limit of bond issuance authority allocated to the state pursuant to a federal limitation act is allocated to the department of energy and economic development for use or allocation pursuant to section 1, clause (2). From September 1 to October 31 of each year, the department or any entity which receives an allocation from the department pursuant to section 1, clause (2), may retain its allocation or a portion of it only if it has submitted to the division of the department responsible for administering this act on or before September 1 a letter which states (a) its intent to issue obligations pursuant to its allocation or a portion of it before the end of the calendar year or within the time period permitted by a federal limitation act, and (b) a description of the specific project or projects for which the obligations will be issued, together with an application deposit in the amount of one percent of the amount of its remaining unused allocation or the portion of it pursuant to which it intends to issue obligations. If the department or any entity which receives an allocation from the department pursuant to section 1, clause (2), does not submit the required letter of intent and the application deposit, the amount originally allocated to the department or any entity which receives an allocation from the department pursuant to section 1, clause (2), or the portion not already used and not subject to a letter of intent shall be canceled and subject to reallocation in accordance with section 12. If the department or any entity which receives an allocation from the department pursuant to section 1, clause (2), returns for reallocation all or any part of its allocation on or before October 31, that portion of its application deposit equal to one percent of the amount returned shall be refunded within 30 days.

**Subd. 4. LOCAL ISSUER ALLOCATION.** Any amount of the aggregate limit of bond issuance authority allocated to the state for any calendar year pursuant to a federal limitation act which is not allocated pursuant to subdivisions 1 to 3 shall be allocated among local issuers pursuant to sections 15 to 20.

**Sec. 15. [474.18] ALLOCATION AMONG ENTITLEMENT ISSUERS.**

**Subdivision 1. ALLOCATION AMOUNTS.** From January 1 to August 31 of each calendar year, 80 percent of the amount of authority determined pursuant to section 14 shall be available solely for issuance of obligations by entitlement issuers.

**Subd. 2. ALLOCATION PROCEDURE.** To obtain an allocation pursuant to this section, an entitlement issuer shall within 30 days after the effective date of this act, submit to the department of energy and economic development a

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certification as to previous use for the four preceding calendar years, and the average annual previous use for the highest three of the four preceding calendar years. Within 15 days thereafter, the department of energy and economic development shall determine and publish the amount of issuance authority allocated to each entitlement issuer which submitted the information required above. The amount of authority for an issuer is the aggregate authority allocated to entitlement issuers pursuant to subdivision 1, multiplied by a fraction. The numerator of the fraction is the highest three-year previous use average as certified by the entitlement issuer. The denominator of the fraction is the combined highest three-year previous use average as certified by all entitlement issuers. Local issuers with boundaries which are coterminous shall be treated as a single issuer for purposes of determining their entitlement allocation, if any.

In such cases the amount of the issuance authority to be allocated to each issuer shall be determined by the city council in the case of a city or the county board in the case of a county. The entitlement issuer may allocate its entitlement allocation to any project for which obligations are issued or are to be issued after December 31, 1983, without regard to any preliminary resolutions which have been adopted for any project.

Within 15 days after the effective date of a federal limitation act, any issuer who submitted a certification in accordance with the first paragraph of this subdivision shall submit a new certification as to previous use as defined in accordance with the federal limitation act for the highest three of the four preceding calendar years. Within 15 days thereafter, the department of energy and economic development shall determine and publish the revised amount of issuance authority allocated to each issuer that is an entitlement issuer that submitted the information required by this subdivision. Failure to submit the new certification required by this paragraph shall result in forfeiture of unused previously allocated issuance authority. The revised amount of issuance authority for each entitlement issuer shall be determined in accordance with the first paragraph of this subdivision, but shall be reduced by the principal amount of obligations issued by the entitlement issuer prior to the date of the determination. If the revised amount of issuance authority for any entitlement issuer is less than zero, the amount shall reduce the amount otherwise available for allocation pursuant to section 16, subdivision 1. The principal amount of any obligations issued by a local issuer that does not qualify as an entitlement issuer based on previous use determined in accordance with the federal limitation act, but issued pursuant to an allocation published in accordance with the first paragraph of this subdivision, shall reduce the amount otherwise available for allocation pursuant to section 16, subdivision 1.

Subd. 3. LETTER OF INTENT. From September 1 to October 31 of each year, an entitlement issuer may retain its allocation or a portion of it only if it has submitted to the department of energy and economic development on or before September 1 a letter which states its intent to issue obligations pursuant to

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its allocation or a portion of it before the end of the calendar year or within the time period permitted by a federal limitation act, together with an application deposit in the amount of one percent of the amount of its remaining unused allocation or the portion of it pursuant to which it intends to issue obligations. If an entitlement issuer does not submit the required letter of intent and the application deposit, the amount originally allocated to the entitlement issuer or the portion not already used and not subject to a letter of intent shall be canceled and subject to reallocation in accordance with section 16. If an entitlement issuer returns for reallocation all or any part of its allocation on or before October 31, that portion of its application deposit equal to one percent of the amount returned shall be refunded within 30 days.

Subd. 4. JOINT POWERS. An entitlement issuer may enter an agreement with a local issuer or the iron range resources and rehabilitation commissioner or the department of energy and economic development by which the local issuer or the iron range resources and rehabilitation commissioner or the department of energy and economic development issues bonds pursuant to issuance authority allocated to the entitlement issuer pursuant to this section. The amount of the issuance shall be considered as issued by the issuer granting use of its allocation for purposes of previous use determination.

#### Sec. 16. [474.19] ALLOCATION OF POOL AMOUNT.

Subdivision 1. POOL AMOUNT. From January 1 to August 31 of each year, 20 percent of the amount determined pursuant to section 14 shall be available solely for local issuers that do not qualify as entitlement issuers and shall be allocated as provided in this section. From September 1 to October 31 of any calendar year, any amounts remaining available for allocation or reallocation pursuant to section 15 or this section shall be allocated among all local issuers and the department of energy and economic development and the iron range resources and rehabilitation commissioner, pursuant to this section. An entitlement issuer, the department of energy and economic development or the iron range resources and rehabilitation commissioner may apply for an allocation pursuant to this section only if the applicant has issued bonds equal to any allocation received pursuant to section 14 or 15 or has returned any remaining allocation for reallocation pursuant to this section.

Subd. 2. APPLICATION. A local issuer that is not an entitlement issuer may apply for an allocation of bond issuance authority pursuant to this section by submitting to the department of energy and economic development on or before the 20th day of any month from December to September an application on forms provided by the department of energy and economic development, accompanied by (i) a resolution of the local issuer expressing a preliminary intention to issue obligations adopted in accordance with section 474.01, subdivision 7b, if applicable, which identifies the proposed project and the proposed amount of the obligations to be issued; and (ii) an application deposit in the

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amount of one percent of the requested allocation. A local issuer may enter into a joint powers agreement with any other state or municipal entity which has authority to issue obligations subject to a federal limitation act whereby the other entity issues the bonds on behalf of the local issuer for the project for which an allocation was received by the local issuer. A local issuer may request an allocation for obligations issued prior to the effective date of this subdivision. A local issuer may elect not to submit an application for an allocation of bond issuance authority for a project for which the local issuer previously adopted a preliminary resolution.

After July 31 of any year, an entitlement issuer may also apply for an allocation under this section. Its application need not comply with clause (i).

Subd. 3. ALLOCATION CRITERIA. The department of energy and economic development shall rank each application on the basis of the number of points awarded to it, with one point being awarded for each of the following criteria satisfied:

(1) The current rate of unemployment for the applicant is at or above 110 percent of the statewide average unemployment rate for the previous year, as determined by the department of economic security. The unemployment rate for the applicant shall be the greater of (i) the most recent estimate available for the smallest jurisdiction which wholly includes the jurisdiction of the applicant, as reported by the department of economic security, or (ii) another estimate supplied by the applicant with respect to its jurisdiction, which is documented by the applicant.

(2) The number of individuals employed in the applicant's jurisdiction declined from the second calendar year before the application, to the first calendar year before the application. The estimate of the number of individuals employed for each year shall be based on the same source, and shall be (i) the most recent estimate available for the smallest jurisdiction which wholly includes the applicant, as reported by the department of economic security, or (ii) another estimate supplied by the applicant with respect to its jurisdiction, which is documented by the applicant.

(3) The number of jobs to be created by the project described in the application is at least 1/10 of one percent of the number of individuals employed in the applicant's jurisdiction in the first calendar year before the application as determined in the manner provided in clause (2).

(4) The number of jobs to be created by the project described in the application is at least two jobs for each \$100,000 of issuance authority requested for the project.

(5) As of the date of application the total market value of all taxable property in the applicant's jurisdiction, as based on the most recent certification of assessed value to the commissioner of revenue, has either (i) declined in

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relation to the first calendar year before the certification, or (ii) increased in relation to the first calendar year before the certification at a rate which is not in excess of 90 percent of the rate of increase of the state average market value over the same period.

(6) The estimated market value of the project described in the application is at least one-half of one percent of the total market value of all taxable property in the applicant's jurisdiction as based on the most recent certification of assessed value to the commissioner of revenue.

(7) The project is wholly located in an enterprise zone designated pursuant to section 273.1312.

(8) The project site meets the criteria necessary to qualify as a tax increment redevelopment district as defined in section 273.73, subdivision 10. To qualify under this clause the project need not be included in a tax increment financing district.

(9) The project meets one of the following energy conservation criteria: (i) the project is eligible for the additional federal investment tax credits for energy property, (ii) the project involves construction or expansion of a district heating system as defined in section 116J.36, or (iii) the project involves construction of an alternative energy source as described in section 116J.26, clause (a), (b), or (d), or 116J.922, subdivision 6 or 7.

(10) Ninety percent or more of the proceeds of the proposed obligations will be used for construction, installation, or addition of equipment used primarily to abate or control pollutants to meet or exceed state laws, rules, or standards.

(11) The project consists of the renovation, rehabilitation, or reconstruction of an existing building which is (i) located in a historic district designated under section 138.73, or on a site listed in the state registry of historical sites under sections 138.53 to 138.5819; or (ii) designated in the National Register pursuant to United States Code, title 16, section 470a.

(12) Ninety percent or more of the proceeds of the proposed obligations will be used to finance facilities for waste management as defined in section 115A.03, subdivision 36, or solid waste as defined in section 116.06, subdivision 10.

(13) Service connections to sewer and water systems are available to the project at the time the application is submitted.

(14) The minority population in the applicant's jurisdiction is at least 110 percent of the statewide average as determined by the affirmative action division of the department of economic security according to the most recent census data.

(15) When the application is submitted either (a) neither the anticipated owner of the project, nor any party of which the owner was a controlling partner

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or shareholder, or which was a controlling shareholder or partner of the owner, owned or operated a substantially similar business within the state or (b) the project is an expansion of the operations of an existing business which is not likely to have the effect of transferring existing employment from one or more other municipalities within the state to the municipality in which the project is located.

(16) A controlling interest in the project will be owned by one or more women or minority persons.

(17) Seventy-five percent or more of the proceeds of the proposed issue will be used to rehabilitate an existing structure.

(18) At the time of application, the property on which the project is to be located is properly zoned for the proposed use.

(19) The bond issue involves a credit enhancement device providing additional security for bondholders involving commitments or fees to be paid by the issuer other than from bond proceeds. No points shall be awarded for credit enhancement devices financed directly or indirectly by a private, for-profit party which has a financial interest in or is related to any party which has a financial interest in the project.

Subd. 4. ALLOCATION PROCEDURE. The department of energy and economic development shall allocate available issuance authority to applications by the fifth day of the month succeeding each application deadline specified in subdivision 2 on the basis of the numerical rank determined pursuant to this section, but (i) no allocation shall be awarded to an application demonstrating less than four points, (ii) any project which is authorized by chapter 115A, chapter 400, or sections 473.801 to 473.834, shall receive an allocation of issuance authority without regard to its numerical rank to the extent that the amount of issuance authority allocated to the project when added to the issuance authority previously allocated during the calendar year pursuant to this clause does not exceed 49 percent of the amount provided in subdivision 1, provided that if obligations for any project described in this clause are not subject to a federal limitation act, no allocation shall be made pursuant to this clause, (iii) if on or before September 1, the department of energy and economic development returns a portion of its allocation for reallocation pursuant to this section, and the iron range resources and rehabilitation commissioner has issued obligations in an amount equal to its allocation or has submitted a letter of intent for any amount not issued, applications from the iron range resources and rehabilitation commissioner which demonstrate four or more points shall receive an allocation up to an amount equal to \$10,000,000 or the amount returned for reallocation by the department of energy and economic development or the amount remaining to be allocated, whichever is less, (iv) if on or before September 1, the iron range resources and rehabilitation commissioner returns a portion of his allocation for reallocation pursuant to this section, and the department of energy and economic

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development has issued obligations in an amount equal to its allocation or has submitted a letter of intent for any amount not issued, applications from the department of energy and economic development which demonstrate four or more points shall receive an allocation up to an amount equal to \$10,000,000 or the amount returned for reallocation by the iron range resources and rehabilitation commissioner or the amount remaining to be allocated, whichever is less, and (v) if two or more applications have the same numerical rank, the allocation of issuance authority as between the applications shall be by lot unless otherwise agreed by the respective local issuers. If an application is rejected, the department of energy and economic development shall return the application deposit to the applicant within 30 days.

Subd. 5. **LETTER OF INTENT.** A local issuer which has received an allocation pursuant to this section prior to September 1 and which intends to issue obligations pursuant to it after August 31 of the year in which the allocation was received, shall submit to the department of energy and economic development on or before September 1 a letter stating its intent to issue bonds before the end of the calendar year or within the time period permitted by a federal limitation act. If the letter of intent is not submitted to the department of energy and economic development, the one percent application deposit shall be returned to the local issuer, the issuance authority shall be canceled, and the issuance authority previously allocated to the local issuer will be available for reallocation pursuant to this section. If a local issuer returns for reallocation all or any part of its allocation on or before October 31, that portion of its application deposit equal to one percent of the amount returned shall be refunded within 30 days.

Subd. 6. **FINAL ALLOCATION.** From November 1 to December 31 of each year any amount determined pursuant to section 14, which is not both previously allocated and subject to a preliminary resolution for a specific project, whether or not committed pursuant to a letter of intent, shall be allocated among local issuers based on a ranking of points for criteria as set forth in subdivisions 3 and 4. No minimum number of points shall be required for allocation. If two or more applications receive an equal number of points, allocation among them shall be made by lot unless otherwise agreed by the respective applicants. An application for this allocation shall be submitted by October 20, shall include evidence of passage of a preliminary resolution giving approval to a specific project and stating that it is the intent of the applicant that the obligations will be issued by the end of the year or within the time period permitted by a federal limitation act, and shall be accompanied by an application deposit in the amount of one percent of the requested allocation. The department of energy and economic development shall notify applicants of their allocation on or before November 5.

Any amounts of authority which may become available for reallocation after November 5 shall be allocated among issuers which filed an application by October 20, pursuant to the criteria stated in subdivision 3.

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Subd. 7. CARRYOVER ALLOCATION. If prior to December 20 of any year, an issuer determines that it will not issue obligations pursuant to authority allocated to it pursuant to this section or section 10 or 11 by the end of that year or within the time period permitted by a federal limitation act, the issuer may notify the department of energy and economic development and such amount will be available for reallocation pursuant to this subdivision. In such case, the department of energy and economic development shall refund to the issuer within 30 days that portion of any application deposit equal to one-third of one percent of the amount returned for reallocation. The amounts available for reallocation shall be allocated on or before December 31 of each year among issuers which have submitted an application by December 10, and which have certified that the project to which the application relates qualifies for carryover treatment of allocated authority according to the terms of a federal limitation act, such that obligations may be issued pursuant to such allocation of authority after the end of the year, without expiration of such authority. If there is insufficient authority for allocation among applications received pursuant to this subdivision, allocation among them shall be made by lot unless otherwise agreed by the respective applicants.

**Sec. 17. [474.20] NOTICES REQUIRED.**

Subdivision 1. NOTICE OF ISSUE. Any issuer of obligations subject to limitation under a federal limitation act shall give a notice of issue stating the date of issuance of the obligations, the allocation under which the obligations are issued, and the principal amount of the obligations to the department of energy and economic development within five days after the obligations are issued. If the notice of issue is not filed within five days after the obligations are issued, the obligations shall be void unless this provision is waived by the commissioner of the department of energy and economic development. Within 30 days after receipt of the notice, the department of energy and economic development shall refund a portion of any application deposit equal to one percent of the principal amount of the obligations issued.

Subd. 2. NOTICE OF AVAILABLE AUTHORITY. The department of energy and economic development shall as soon as possible after the fifth day of each month publish in the State Register a notice of the amount of authority available for allocation or reallocation in the following month as of the fifth day of the month during which the notice is published, after allocation of authority pursuant to section 16.

**Sec. 18. [474.21] APPLICABILITY TO OTHER CHAPTERS.**

Sections 13 to 20 apply to any issuance of obligations subject to limitation under a federal limitation act, whether issued under sections 474.01 to 474.13, or other law.

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**Sec. 19. [474.22] LEGISLATIVE REVIEW.**

On March 1, 1986, the department of energy and economic development shall deliver a comprehensive report to the secretary of the senate and the clerk of the house which provides detailed information concerning the allocation of issuing authority pursuant to sections 13 to 20.

**Sec. 20. [474.23] ADDITIONAL CONDITIONS.**

If a federal limitation act as defined in section 13, subdivision 5, is adopted, action under chapter 474 with respect to any project which is to be financed by obligations which are subject to a federal limitation act shall be subject to the following conditions:

(a) No municipality or redevelopment agency shall undertake any project, except a project referred to in section 474.02, subdivision 1f, unless its governing body finds that the project would not be undertaken but for the availability of industrial development bond financing.

(b) Notwithstanding any provision of this chapter, the term "project" shall not include: an airplane; a private luxury box; a facility primarily used for gambling; or a store the principal business of which is the sale of alcoholic beverages for consumption off premises.

(c) No more than ten percent of the proceeds of revenue bonds may be used to finance movable equipment not constituting a fixture, no more than 25 percent of the proceeds of revenue bonds may be used to finance the acquisition of land, and not more than \$10,000,000 in revenue bonds which are industrial development bonds subject to the exemption described in section 103(b)(6) of the Internal Revenue Code of 1954, as amended through December 31, 1983, may be issued with respect to any one building which is used for commercial, office or industrial purposes, without regard to ownership of condominium units within the building.

This section takes effect 90 days after the federal limitation act is signed by the president or passed over his veto.

**Sec. 21. [475.77] OBLIGATIONS SUBJECT TO FEDERAL LIMITATION ACT.**

Sections 13 to 20 apply to any issuance of obligations which are subject to limitation under a federal limitation act as defined in section 13, subdivision 5.

**Sec. 22. [474.24] ORDER OF THE GOVERNOR.**

If for any reason the provisions of this act do not become effective insofar as they provide for an allocation of issuing authority by the legislature of the state under a federal limitation act and if the governor may under the federal limitation act effect the allocation, the governor may provide for the allocation but only in accordance with the terms and conditions of this act.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 23. **REPEALER.**

Sections 1, 6, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 22 are repealed effective January 1, 1986.

Sec. 24. **EFFECTIVE DATE.**

This act is effective the day after final enactment.

Approved April 26, 1984

**CHAPTER 583 — H.F.No. 1775**

*An act relating to energy and economic development; energy and economic development authority; adding definitions; clarifying duties and powers of the energy and economic development authority; correcting statutory references; amending Minnesota Statutes 1982, sections 116J.88, as amended; 116J.89, subdivision 4; 116J.90, by adding a subdivision; 116J.91, subdivisions 15, 17, 18, and by adding a subdivision; 474.01, subdivisions 7 and 7a; Minnesota Statutes 1983 Supplement, sections 116J.89, subdivisions 1, 1a, 1b, 1c, 2, 6, and 8; 116J.90, subdivisions 1, 2, 3, 5, and 6; 116J.91, subdivisions 1, 4, 11, 12, 16, 19, and 20; 116J.923, subdivision 7; 116J.924, subdivision 3; 116J.925, subdivisions 1 and 3; 275.125, subdivision 12a; Laws 1983, chapter 323, section 5, subdivision 2; proposing new law coded as Minnesota Statutes, chapter 116M; repealing Minnesota Statutes 1983 Supplement, sections 116J.922; 116J.923, subdivisions 2 and 12; and 116J.924, subdivision 1.*

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

Section 1. Minnesota Statutes 1982, section 116J.88, as amended by Laws 1983, chapter 289, sections 63, 64, 65, 66, 67, 68, and 69, is amended to read:

**116J.88 SMALL BUSINESS FINANCE AGENCY, MINNESOTA ENERGY AND ECONOMIC DEVELOPMENT AUTHORITY; DEFINITIONS.**

Subdivision 1. **SCOPE.** Each term defined in this section has the meaning given it whenever used in sections ~~116J.63 and 116J.88~~ 116J.875 to 116J.9116J.926.

Subd. 2. **AUTHORITY.** "Authority" means the Minnesota energy and economic development authority created in section 116J.89.

Subd. 3a. **BUSINESS.** "Business" means any person engaged in a trade or business of any nature that is operated for profit or not for profit.

Subd. 4. **ELIGIBLE SMALL BUSINESS.** "Eligible small business" means an enterprise determined by the authority to constitute a small business concern as defined in regulations of the United States small business administration pursuant to United States Code, title 15, sections 631 to 647, as amended from time to time.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.