

CHAPTER 362

ECONOMIC DEVELOPMENT

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362.01-362.06 [Repealed, 1947 c 587 s 22]

362.07 DEPARTMENT OF ECONOMIC DEVELOPMENT.

There is hereby created and established a department of the state government to be designated and known as the Department of Economic Development, said department and all officials thereof to be subject to the provisions and limitations of sections 362.07 to 362.23.

History: 1947 c 587 s 1; 1953 c 754 s 1; 1967 c 299 s 1; 1971 c 24 s 39

362.08 DEFINITIONS.

As used in sections 362.07 to 362.23, "department" means the department of economic development, and "commissioner" means the commissioner of economic development.

History: 1947 c 587 s 2; 1953 c 754 s 2; 1967 c 299 s 2; 1971 c 24 s 40

362.09 COMMISSIONER; ADVISORY COMMITTEE.

Subdivision 1. The department shall be under the supervision and control of a commissioner of economic development who shall be appointed by the governor under the provisions of section 15.06. He shall be chosen with regard to his knowledge, training, experience, and ability in administering the functions of the department.

The commissioner shall appoint a deputy commissioner.

Subd. 2. Subject to the provisions of applicable law the commissioner shall organize the department. He shall establish a division of tourist development, a division of industrial development and such other divisions as he may deem necessary to discharge the functions of his department. The division of industrial development shall consist of two bureaus (a) a bureau of rural development (b) a bureau of urban development and special services. He shall staff each division and bureau so as to best enable him to carry out his duties and responsibilities.

Subd. 3. A committee of 21 members to act in an advisory capacity to the commissioner is created. Members thereof shall be appointed by the commissioner, two from each congressional district and five from the state at large, for terms to coincide with the term of the governor. The commissioner shall appoint the chairman of the committee. The committee shall organize and elect from among its members such other officers as it may deem necessary. The committee shall meet at the call of the chairman or the commissioner. The committee shall expire and the terms, compensation, and removal of members shall be as provided by section 15.059.

Subd. 4. The commissioner shall submit his biennial budget to the committee for review and comment. He shall also periodically seek the advice of the committee concerning the operation of the department. The commissioner shall also file an annual report of his activities with the committee on or before December 31 of each year and the report shall be a public record.

History: 1947 c 587 s 3; 1951 c 713 s 33; 1953 c 754 s 3; Ex1961 c 65 s 1; 1965 c 51 s 69; 1967 c 299 s 3; 1969 c 1129 art 8 s 13; 1975 c 271 s 6; 1975 c 315 s 22; 1977 c 305 s 37

362.10 FUNCTIONS.

The department of economic development shall encompass the following functions:

- (1) Research and statistics,
- (2) Publicity and promotion,
- (3) Promotion of the higher use of agricultural and forest lands,
- (4) Business, economic and industrial development services, and
- (5) Promotion of tourism.

History: 1947 c 587 s 4; 1953 c 754 s 4; 1967 c 299 s 4

362.11 DUTIES OF COMMISSIONER.

The commissioner shall have power, and it shall be his duty, to exercise the functions, perform the work, and carry on the activities specified in sections 362.13 and 362.15 as functions of the department.

History: 1947 c 587 s 5; 1967 c 302 s 1

362.12 SCOPE OF DEPARTMENTAL POWERS AND DUTIES.

Subdivision 1. **Enumeration.** The department shall:

- (1) Investigate, study, and undertake ways and means of promoting and encouraging the prosperous development and protection of the legitimate interest and welfare of Minnesota business, industry, and commerce, within and outside the state;
- (2) Locate markets for manufacturers and processors and aid merchants in locating and contacting markets;
- (3) Investigate and study conditions affecting Minnesota business, industry, and commerce and collect and disseminate information, and engage in technical studies, scientific investigations, and statistical research and educational activities necessary or useful for the proper execution of the powers and duties of the department in promoting and developing Minnesota business, industry, and commerce, both within and outside the state;
- (4) Plan and develop an effective business information service both for the direct assistance of business and industry of the state and for the encouragement of business and industry outside the state to use economic facilities within the state;
- (5) Compile, collect, and develop periodically, or otherwise make available, information relating to current business conditions;
- (6) Conduct or encourage research designed to further new and more extensive uses of the natural and other resources of the state and designed to develop new products and industrial processes;
- (7) Study trends and developments in the industries of the state and analyze the reasons underlying such trends; study costs and other factors affecting successful operation of businesses within the state; and make recommendations regarding circumstances promoting or hampering business and industrial development;

(8) Serve as a clearing house for business and industrial problems of the state; and advise small business enterprises regarding improved methods of accounting and bookkeeping;

(9) Encourage and develop commerce with other states and foreign countries and devise ways and means of removing trade barriers hampering the free flow of commerce between this and other states;

(10) Cooperate with interstate commissions engaged in formulating and promoting the adoption of interstate compacts and agreements helpful to business, industry, and commerce;

(11) Cooperate with other state departments, and with boards, commissions, and other state agencies, in the preparation and coordination of plans and policies for the development of the state and for the use and conservation of its resources insofar as such use, conservation, and development may be appropriately directed or influenced by state agency;

(12) Assemble and coordinate information relative to the status, scope, cost, and employment possibilities and the availability of materials, equipment, and labor in connection with public works projects, state, county, and municipal; recommend limitations on said public works; gather current progress information with reference to public and private works projects of the state and its political subdivisions with reference to conditions of employment; inquire into and report to the governor, when requested by him, with respect to any program of public state improvements and the financing thereof; and request and obtain information from other state departments or agencies as may be needed properly to report thereon;

(13) Study changes in population and current trends and prepare plans and suggest policies for the development and conservation of the resources of the state;

(14) Confer and cooperate with the executive, legislative, or planning authorities of the United States and neighboring states and of the counties and municipalities of such neighboring states, for the purpose of bringing about a coordination between the development of such neighboring states, counties, and municipalities and the development of this state;

(15) Generally, gather, compile, and make available statistical information relating to business, trade, commerce, industry, transportation, communication, natural resources, and other like subjects in this state; with authority to call upon other departments of the state for statistical data and results obtained by them and to arrange and compile that statistical information in such manner as may seem wise.

Subd. 1a. **Promotional contracts.** In order to best carry out his duties and responsibilities and to serve the people of the state in the promotion of tourism and economic development the commissioner may engage in programs and projects jointly with a private person, firm, corporation or association and may enter into contracts under terms to be mutually agreed upon to carry out such programs and projects not including acquisition of land or buildings. Such contracts may be negotiated and shall not be subject to the provisions of chapter 16, insofar as such provisions relate to competitive bidding.

Subd. 2. **Information available to the public.** Statistical and other information obtained by the division of research and statistics in the exercise of its powers and duties shall be available at all times to the public.

Subd. 3. **Governor may assign new duties; transfer from other departments.** The governor may by order in writing transfer at any time the whole or any part of any office, bureau, division, or other branch of the state government engaged in statistical work to the department of business research and development, and in every such case the duties and authority performed by and conferred by law

upon such office, bureau, division, or other branch of the state government or the part thereof so transferred shall be thereby transferred with such office, bureau, division, or other branch of the state government or the part thereof which is so transferred.

Subd. 4. **Commissioner may enter into project agreements.** The commissioner may enter into project agreements with organizations or corporations for the purpose of developing the tourism potential of the state. If in the judgment of the commissioner a project will make a meaningful contribution to the tourism development of the state, he may enter into local or regional agreements. The commissioner shall not agree to pay more than 50 percent of the total annual project cost.

History: 1947 c 587 s 6; 1967 c 299 s 5; 1979 c 333 s 98

362.121 IMPREST FUNDS, USE.

The commissioner of economic development may use the money in the imprest fund of his department in order to facilitate and expedite its business particularly in the making of advances of moneys to officers and employees of the department and members of the advisory committee for the purpose of defraying the expenses of travel, subsistence, and other similar expenses, and in meeting emergencies, and in accordance with such requirements therefor as may be prescribed by the commissioner of finance. The imprest fund shall be reimbursed for all moneys advanced in the manner prescribed by the rules of the commissioner of administration.

History: 1967 c 299 s 8; 1973 c 492 s 14; 1975 c 271 s 6

362.125 PROMOTIONAL EXPENSES.

In the promotion of tourism and economic development of the state of Minnesota, the state commissioner of economic development may expend from moneys appropriated by the legislature for such purposes in the same manner as private persons, firms, corporations and associations make expenditures for such purposes. For purposes of allotment, encumbrance and disbursement all transactions for promotional purposes shall be coded under the commissioner of finance's object of expenditure code for advertising. The encumbrance shall be made on a miscellaneous encumbrance requisition. Any such expenditures for food, lodging or travel shall not be governed by the travel regulations of the commissioner of administration.

History: Ex1967 c 48 s 84; 1973 c 492 s 14; 1977 c 455 s 84

362.13 ADDITIONAL POWERS AND DUTIES.

The department shall:

- (1) Have control of the work of carrying on a continuous program of education for businessmen;
- (2) Publish, disseminate, and distribute information and statistics acquired by the division of research and statistics in cooperation with that division;
- (3) Promote and encourage the expansion and development of markets for Minnesota products;
- (4) Promote and encourage the location and development of new business in the state as well as the maintenance and expansion of existing business and for that purpose cooperate with state and local agencies and individuals, both within and outside the state;
- (5) Advertise and disseminate information as to natural resources, desirable locations, and other advantages for the purpose of attracting business to locate in this state;

(6) Aid the various communities in this state in getting business to locate therein;

(7) Advise and cooperate with municipal, county, regional, and other planning agencies and planning groups within the state for the purpose of promoting coordination between the state and localities as to plans and development in order to maintain a high level of gainful employment in private profitable production and achieve commensurate advancement in social and cultural welfare; coordinate the activities of state-wide and local planning agencies, correlate information secured from them and from state departments and disseminate information and suggestions to such planning agencies; and encourage and assist in the organization and functioning of local planning agencies where none exist; and may provide at the request of any governmental subdivision hereinafter mentioned planning assistance, which includes but is not limited to surveys, land use studies, urban renewal plans, technical services and other planning work to any city or other municipality in the state or perform similar planning work in any county, metropolitan or regional area in the state providing that the department of business development shall not perform such planning work with respect to a metropolitan or regional area which is under the jurisdiction for such planning purposes of a county, metropolitan, regional or joint planning body, except at the request or with the consent of the respective county, metropolitan, regional or joint planning body. The department is authorized to receive and expend funds from municipal, county, regional and other planning agencies; and may accept and disburse grants and other aids for planning purposes from the federal government and from other public or private sources, and may utilize moneys so received for the employment of consultants and other temporary personnel to assist in the supervision or performance of planning work supported by funds other than state appropriated funds, and may enter into such contracts with agencies of the federal government, units of local government or combinations thereof, and with private persons as are necessary in the performance of its planning assistance function. In furtherance of their planning functions, any city or town, however organized, may expend funds and contract with agencies of the federal government, appropriate departments of state government, other local units of government and with private persons;

(8) Adopt such measures as may best be calculated to promote public interest in and understanding of the problems of planning and, to that end, may publish and distribute copies of any plan or any report and may employ such other means of publicity and education as shall give full effect to the provisions of sections 362.07 to 362.23;

NOTE: Duties relating to community planning, clauses 7 and 8, transferred to state planning office. See section 4.16, subd. 5.

(9) Perform the functions and carry out programs heretofore performed and carried out by the tourist bureau of the department of natural resources, plan and conduct programs of information and publicity designed to attract tourists, visitors, and other interested persons from outside the state to this state, and in that connection encourage and coordinate the efforts of other public and private organizations or groups of citizens to publicize the facilities and attractions of the state and work with representatives of the tourist and resort industry in carrying out its programs.

History: 1947 c 587 s 7; 1957 c 842 s 1; 1959 c 598 s 1; 1969 c 1129 art 3 s 2; 1971 c 24 s 41; 1973 c 123 art 5 s 7

362.132 SMALL BUSINESS FINANCE AGENCY.

The commissioner of economic development may enter into agreements or transactions with the small business finance agency created under section 362.51 to perform any or all administrative tasks in connection with the exercise and

implementation of the powers and programs of the small business finance agency.

History: 1980 c 547 s 5

362.14 [Renumbered 325.907]

362.15 REPORTS AND RECOMMENDATIONS TO THE GOVERNOR.

The commissioner shall cause to be prepared and submitted to the governor and to the legislature by November 15 of each even numbered year, and at each special session when so requested by the governor, a report of the activities of the department, together with such information and data in the possession of the department as the commissioner shall deem of value to the governor, the legislature, and the people of the state of Minnesota. Each such report may contain such recommendations and legislation as the commissioner may deem necessary to give full effect to all the provisions of sections 362.07 to 362.23.

History: 1947 c 587 s 9; 1971 c 24 s 42; 1974 c 406 s 69

362.16 [Repealed, 1976 c 149 s 63]

362.17 GRANTS FROM FEDERAL GOVERNMENT OR FROM INDIVIDUALS.

The department is authorized to accept any grant of funds or property made by the United States or any department or agency thereof, or by any individual, for any or all of the purposes specified in sections 362.07 to 362.23, and shall expend said funds in accordance with the terms and conditions of the grant.

History: 1947 c 587 s 11; 1971 c 24 s 43; 1976 c 2 s 129

362.18 DEPARTMENT TO RECEIVE ASSISTANCE, INFORMATION, AND ADVICE FROM OTHER STATE DEPARTMENTS OR AGENCIES.

The governor may direct that assistance, information and advice be given the department in the performance of its duties and functions by any officer, agent, or employee of the state. The head of any other state department may assign temporarily to the department experts and employees of his department or may direct any division or agency under his supervision and control to make any special study or survey requested by the commissioner.

History: 1947 c 587 s 12

362.19 COOPERATION WITH UNIVERSITY OF MINNESOTA.

The commissioner shall at all times cooperate with the University of Minnesota and its departments and shall obtain from the university such assistance as it may be able to afford him in relation to research and promotion as will aid in carrying out the provisions of sections 362.07 to 362.23.

History: 1947 c 587 s 13; 1971 c 24 s 44

362.20 SALE OF PAMPHLETS AND PUBLICATIONS; FEES; ADVERTISING.

Subdivision 1. The commissioner may sell reports, publications, or related publicity or promotional material of the department that in his judgment should not be supplied gratis to those who wish to employ them in the conduct of their business.

Subd. 2. The commissioner shall recommend a schedule of fees pursuant to section 16A.128 to be charged for these materials and for services rendered by the department in furnishing them. The fees prescribed by the commissioner shall be commensurate with the distribution objective of the department for the

material produced or with the cost of furnishing the services. All fees for materials and services shall be deposited in the general fund.

Subd. 3. Department publications may contain advertising and may receive advertising revenue from profit and nonprofit organizations, associations, individuals and corporations, and other state, federal or local government agencies. Advertising revenues shall be deposited in the general fund. The commissioner shall set advertising rates and fees commensurate with services rendered and distribution objectives.

History: 1947 c 587 s 14; 1979 c 333 s 99

362.21 [Repealed, 1961 c 561 s 17]

362.22 [Repealed, 1961 c 561 s 17]

362.23 PERSONNEL.

The commissioner may hire such personnel as is necessary to carry on the functions of the department. The commissioner may appoint to serve at his pleasure in the unclassified service of the state civil service a director of research, director of publicity and promotion, a director of tourist development, a director of finance, and a director of industrial development, and may assign to them such duties as he desires. Each director shall enjoy a confidential relationship with the commissioner.

History: 1947 c 587 s 18; 1953 c 754 s 5; 1967 c 299 s 6

362.231 [Repealed, 1967 c 299 s 10]

362.24 [Repealed, 1961 c 561 s 17]

362.241 [Renumbered 325.905]

362.31 [Renumbered 32A.03]

362.32 [Renumbered 32A.04]

362.33 [Renumbered 32A.05]

362.34 [Renumbered 32A.06]

362.35 [Renumbered 32A.07]

362.36 [Renumbered 32A.08]

362.37 [Renumbered 32A.09]

362.38 [Renumbered 32A.02]

362.39 [Renumbered 32A.01]

362.40 LOANS TO INDIANS LIVING ON AND OFF RESERVATION.

Subdivision 1. For purposes of this section the following terms shall have the meanings ascribed to them herein.

Subd. 2. "Indian" means a person of one-quarter or more Indian blood and who is an enrolled member of a Minnesota based band or tribe.

Subd. 3. [Repealed, 1980 c 391 s 4]

Subd. 4. "Reservation residents" means Indians living on reservations at the time of the census.

Subd. 5. "Nonreservation residents" means Indians living off reservations in Minnesota at the time of the census, and who are enrolled members of a Minnesota-based tribe or band.

Subd. 6. "Person" means an individual Indian, or a partnership comprising Indians only, or a corporation whose stock is owned wholly by Indians.

Subd. 7. "Tribal council" means the reservation business committee or equivalent duly constituted tribal authority.

Subd. 8. The remaining 20 percent of the tax revenue received by the county auditor under section 273.13, subdivision 2a shall be remitted by the county auditor to the state treasurer and shall be deposited in the general fund in special accounts identified as "reservation residents loan accounts" and a "nonreservation residents loan account". The amount to be credited to each reservation residents loan account shall be that percentage of the amount received from all the counties pursuant to subdivision 8 as the number of Indians living on such reservation bears to all the Indians in Minnesota, as said percentage is determined by the department of economic development. The amount remaining shall be credited to the nonreservation residents loan account. The amounts credited to each of these special accounts shall be used solely for making loans to Indians, in the manner provided by subdivisions 9 and 10.

Subd. 9. A reservation resident desiring a loan for the purpose of starting a business enterprise, expanding an existing business, or for technical and management assistance, shall make application to the state department of economic development. The department shall prescribe the necessary forms and advise the prospective borrower as to the conditions under which his application may be expected to receive favorable consideration. The tribal council shall recommend to the department that the loan be accepted or rejected. The department shall approve or reject the application taking the tribal council recommendation into consideration. If the application is approved, the department shall forward the application, together with all relevant documents pertinent thereto, to the commissioner of finance, who shall draw his warrant in favor of the tribal council with appropriate notations identifying the borrower. The tribal council shall thereafter reimburse suppliers and vendors for purchases of equipment, real estate and inventory made by the borrower pursuant to the conditions or guidelines established by the state department of economic development. The tribal council shall maintain records of transactions for each borrower in a manner consistent with good accounting practice. Simple interest at two percent of the amount of the debt owed shall be charged. When any portion of a debt is repaid, the tribal council shall remit the amount so received plus interest paid thereon to the state treasurer through the department of economic development. The amount so received shall be credited to such reservation residents loan account. The tribal council shall secure a fidelity bond from a surety company, in favor of the state treasurer, in an amount equal to the maximum amount to the credit of such reservation residents loan account during the fiscal year. Additional money equal to ten percent of the total amount made available to any tribal council during the fiscal year shall be paid to such council prior to December 31 for the purpose of financing administrative costs.

Subd. 10. A nonreservation resident desiring to make a loan for the purpose of starting a business enterprise, or expanding an existing business, or for technical and management assistance shall make application to the state department of economic development, on forms prescribed by the department. The department is empowered to either accept or reject the application, based upon guidelines and conditions essentially similar to those used for the purpose of approving or rejecting reservation loans under subdivision 9. If the application is approved by the state department of economic development, the department shall forward the application, together with all the relevant documents pertinent thereto, to the commissioner of finance, who shall draw his warrant in favor of the commissioner of economic development, with appropriate notations identifying the borrower. The department of economic development shall thereafter reimburse suppliers and vendors for purchases of equipment, real estate and inventory made by the borrower pursuant to the conditions or guidelines established by the department. The department of economic development shall maintain records of transactions for each borrower in a manner consistent with good

accounting practice. Simple interest at two percent shall be charged. When any portion of a debt is repaid, the department of economic development shall remit the amount so received plus interest paid thereon to the state treasurer. The amount so received shall be credited to the nonreservation residents loan account.

Subd. 11. Loans made under subdivisions 9 and 10 shall be limited to a period of 20 years, if made for the purpose of financing nonreal estate purchases. Loans made for the purpose of financing real estate purchases, where such real property is to be used for nonresidential purposes only, shall be limited to a period of 40 years, and shall be a lien on the real property so acquired. Under no circumstances shall the state take a position junior to third lien. In instances where it is impossible or undesirable to secure a lien against real property, the state may secure a lien against personal property for an amount equal to the face value of the loan.

Subd. 12. Any person misrepresenting facts regarding the Indian ancestry of a prospective borrower for the purpose of securing a loan under subdivisions 9 and 10, whether such borrower be an individual, partnership or corporation, shall be guilty of a gross misdemeanor.

Subd. 13. The county auditor shall remit the tax revenue received yearly to the state treasurer as required by subdivision 8 no later than December 15.

Subd. 14. There is appropriated annually an amount equal to the tax revenue allotted under subdivisions 9 and 10.

History: 1973 c 254 s 3; 1973 c 492 s 14; 1973 c 650 art 20 s 4; 1977 c 430 s 25 subd 1; 1979 c 333 s 100-102; 1980 c 391 s 1-3

362.41 COMMUNITY DEVELOPMENT CORPORATIONS.

Subdivision 1. For the purposes of this section, the following terms shall have the meanings given them:

Subd. 2. "Economic development region" means an area so designated in the governor's executive order number 60, dated June 12, 1970, as amended.

Subd. 3. "Federal poverty level" means the income level established by the United States Community Services Administration in 45 CFR 1060.2-2.

Subd. 4. "Low income" means an annual income below the federal poverty level.

Subd. 5. The commissioner of economic development shall administer this section and shall enforce the rules related to the community development corporations promulgated by the commissioner. The commissioner may amend, suspend, repeal or otherwise modify these rules as provided for in chapter 15.

Subd. 6. The commissioner shall designate a community development corporation as eligible to receive grants pursuant to this section if the corporation:

- (a) Is a non-profit corporation incorporated under chapter 317;
- (b) Designates in its articles of incorporation or bylaws a specific geographic community within which it will operate. At least ten percent of the population within the designated community must have low income. Within the metropolitan area as defined in section 473.121, subdivision 2, a designated community shall be an identifiable neighborhood, or a combination of neighborhoods or home rule charter or statutory cities, townships, unincorporated areas or combinations thereof. Outstate designated communities shall to the extent possible not cross existing economic development boundaries;
- (c) Limits voting membership to residents of the designated community;
- (d) Has a board of directors with 15 to 30 members, unless the corporation can demonstrate to the commissioner that a smaller or larger board is more advantageous. At least 60 percent of the directors shall have low incomes and

the remaining directors shall be members of the business or financial community and the community at large. To the greatest extent possible directors shall be residents of the designated community. The low income directors shall be elected by the members of the corporation, and the remaining directors may be elected by the members of the corporation or selected by the low income directors; and

(e) Hires low income residents of the designated community to fill non-managerial and non-professional positions.

Subd. 7. The commissioner shall approve a grant to a community development corporation only for a project carried on within the designated community, except when the corporation demonstrates that a project carried on outside will have a significant impact inside the designated community.

Subd. 8. The commissioner may approve a grant to a community development corporation for planning, including organization of the corporation, training of the directors, creation of a comprehensive community economic development plan, and development of a proposal for a venture grant, or for establishment of a business venture, including assistance to an existing business venture, purchase of partial or full ownership of a business venture, or development of resources or facilities necessary for the establishment of a business venture.

Subd. 9. Factors considered by the commissioner in approving a grant to a community development corporation should include the creation of employment opportunities, the maximization of profit and the effect on securing funds from sources other than the state.

Subd. 10. Grants under this section shall not be available for programs conducted by churches or religious organizations or for securing or developing social services.

Subd. 11. A person shall not be excluded from participation in a program funded pursuant to this section because of race, color, religion, sex, age or national origin.

History: 1977 c 391 s 1; 1978 c 709 s 4,5

362.42 BUSINESS ASSISTANCE.

The commissioner of economic development shall establish within the department a business assistance center. The center shall consist of (1) a bureau of small business which shall have as its sole function the provision of assistance to small businesses in the state and (2) a bureau of licenses to assist all businesses in obtaining state licenses and permits. This center shall be accorded at least equal status with the other major operating units within the department.

History: 1978 c 709 s 2; 1979 c 246 s 2

362.44 BUREAU OF SMALL BUSINESS.

Subdivision 1. The bureau of small business within the business assistance center shall serve as a clearinghouse and referral service for information needed by small businesses including those operated by a socially or economically disadvantaged person.

Subd. 2. The bureau shall:

(a) Plan, promote, coordinate and execute activities of concern to the bureau of small business;

(b) Plan, direct and evaluate all management and technical assistance programs to insure an efficient and effective delivery of services to the small business community;

(c) Determine and establish annual goals by implementing reporting requirements essential to the continual evaluation of the bureau of small busi-

ness, and report each biennium to the appropriate legislative committees the results of the evaluation;

(d) Maintain a close and continued relationship with the director of the procurement program within the department of administration;

(e) Plan, coordinate and execute an up-to-date master file system that lists all assistance programs for small businesses from federal, state, non-governmental agencies, chambers of commerce, educational institutions, civic organizations and private industry; and

(f) Develop an information system, with due regard to privacy statutes, which will enable the commissioner and other state agencies to efficiently store, retrieve, analyze and exchange data regarding business development and growth in the state.

Subd. 3. The bureau may be assisted by small business assistance specialists. The specialists may provide information to small businesses concerning programs, functions, services, location and contact points of all educational institutions, chambers of commerce, civic organizations, private industrial associations and federal, state and local government agencies located or operating in the state with respect to small business activities.

A toll free telephone number shall be established so that all small business persons anywhere in the state can call the bureau office for assistance. An outreach program shall be established to make the existence of the bureau well known to its potential clientele throughout the state.

Subd. 4. Except as otherwise provided in this section, the responsibilities of the bureau of small business may include the following:

(a) Providing information and assistance with respect to laws, rules and regulations, forms, licenses and financing to persons who want to start or already operate a small business;

(b) Referring persons who want to start or already operate a small business to assistance programs sponsored by federal agencies, state agencies, educational institutions, chambers of commerce, civic organizations, community development groups, and private industry associations;

(c) Conducting research and providing data required by the state legislature;

(d) Developing and publishing materials on small business laws, rules and regulations, potential financing, licenses and other programs offered by federal, state and local agencies, non-governmental agencies and private sources;

(e) Collecting and disseminating information on state contracts, including the policies and procedures to submit bids for state contracts; and

(f) Developing a public awareness program through the use of newsletters, personal contacts, and electronic and print news media advertising state assistance programs for small businesses, including those programs specifically for socially disadvantaged small business persons.

History: 1979 c 246 s 3

362.45 BUREAU OF BUSINESS LICENSES.

Subdivision 1. The bureau of business licenses shall study all state licenses, including registrations, permits and related requirements, for the operation of a business within Minnesota. The bureau shall also study applications and forms not necessarily related to licenses, which are required by state agencies to operate a business within the state. All state agencies shall cooperate with and provide information to the bureau of business licenses in conducting the study. The bureau shall issue a preliminary report to the appropriate standing committee of the legislature no later than January 1, 1980, and shall issue its final report to

the governor and legislature by January 1, 1981. The final report shall include, but need not be limited to, recommendations as to:

- (a) Reducing the total number of licenses required to conduct business in the state;
- (b) Eliminating licenses which no longer serve a useful purpose in regulating business activities;
- (c) Modifying and combining licenses;
- (d) Determining the need and justification for maintaining a license within the current issuing agency rather than transferring the authority to issue the license to the bureau of business licenses;
- (e) Analyzing and making a recommendation as to whether the enforcement of a current licensing requirement shall be transferred to the bureau of business licenses;
- (f) Determining the structure, budget, duties, and staff complement necessary to perform the licensing activities being transferred to the bureau of licenses;
- (g) Developing an information system which will (1) enable state agencies to efficiently store, retrieve and exchange registration and license information, with due regard to privacy statutes, and (2) enable the bureau of business licenses to issue and renew licenses when appropriate;
- (h) Recommending which licenses should not be issued by the bureau of business licenses; and
- (i) Modifying, simplifying and combining applications and forms required to operate a business within the state.

Subd. 2. The issuance of all state licenses, including registrations, permits and related requirements, for the operation of a business within Minnesota shall be transferred to the bureau of business licenses between July 1, 1981 and July 1, 1982 unless otherwise provided by law. Enforcement of requirements to obtain or maintain a license shall remain with the agency which formerly issued the license unless otherwise provided by law. When authority to issue or enforce a license is transferred to the bureau of business licenses, the budget and staff necessary to perform those functions shall also be transferred to the bureau of business licenses.

History: 1979 c 246 s 4

362.50 SMALL BUSINESS FINANCE AGENCY, DEFINITIONS.

Subdivision 1. Each term defined in this section has the meaning given it whenever used in sections 362.132 and 362.50 to 362.53.

Subd. 2. "Agency" means the small business finance agency created in section 362.51.

Subd. 3. "Owner" means a person, partnership, firm, or corporation engaged in a small business and applying to the agency for a loan under section 362.52.

Subd. 4. "Small business" means an enterprise defined as a small business concern in regulations of the United States small business administration pursuant to 15 U. S. Code, Sections 631 to 647, as in effect March 1, 1980, which is engaged in any industrial or commercial activity except:

- (a) Banking or other financial service;
- (b) Real estate brokerage, management, sale, ownership, or leasing;
- (c) Legal, medical, dental, accounting, engineering, or any other professional or consulting service;

(d) Furnishing recreational or athletic facilities; and

(e) Serving food or beverages to be consumed on or adjacent to the premises where they are sold.

Subd. 5. "Eligible small business" for the purpose of section 362.52, subdivision 5, means a business entity organized for profit, including but not limited to any individual, partnership, corporation, joint venture, association or cooperative, which entity:

(a) Is not an affiliate or subsidiary of a business dominant in its field of operation; and

(b) Has 20 or fewer full time employees or not more than the equivalent of \$1,000,000 in annual gross revenues in the preceding fiscal year.

Subd. 6. "Dominant in its field of operation" means having more than 20 full time employees and more than \$1,000,000 in annual gross revenues.

Subd. 7. "Affiliate or subsidiary of a business dominant in its field of operation" means a business which is at least 20 percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation.

Subd. 8. "Financial institution" means any bank or other financial corporation described in chapter 47, any insurance company licensed to do business under chapter 60A, and any securities broker-dealer licensed under chapter 80A.

Subd. 9. "Business loan" means a loan, other than a pollution control loan, to the owner of a small business for the interim or long term financing of capital expenditures for the acquisition or improvement of land, construction or improvement of buildings, or acquisition and installation of fixtures and equipment useful for the conduct of the business.

Subd. 10. "Pollution control loan" means a federally guaranteed loan to the owner of a small business for the acquisition, construction, or improvement of pollution control facilities as defined by federal law authorizing the guaranty. On April 12, 1980 such facilities are defined in 15 U. S. Code, Sections 694-1 and 694-2, as such real and personal property as the United States small business administration, in its discretion, determines is likely to help prevent, reduce, abate, or control noise, air, or water pollution or contamination by removing, altering, disposing, or storing pollutants, contaminants, wastes, or heat, and such real and personal property as the administration determines will be used for the collection, storage, treatment, utilization, processing, or final disposal of solid or liquid waste shall qualify as a project for a pollution control loan.

History: 1980 c 547 s 1

362.51 SMALL BUSINESS FINANCE AGENCY.

Subdivision 1. A small business finance agency is hereby created and is constituted as an authority to act on behalf of the state within the scope of the powers granted to it in sections 362.132 and 362.50 to 362.53 to implement a loan program by which, in cooperation with cities, towns, counties and private or public lenders, adequate funds may be provided on sufficiently favorable terms to assist and encourage the establishment, maintenance and growth of small business in Minnesota and to reduce to a manageable level the cost of the control of pollution and disposal of waste resulting from the operations of small business.

Because of its ability to pool or combine loans to be funded from one or more issues of bonds, the agency will be able to spread its financing costs among the small businesses to which the agency makes loans, thereby reducing costs incurred by each small business.

Subd. 2. Sections 362.132 and 362.50 to 362.53 are enacted to promote the welfare and prosperity of the state by maintaining and increasing the career and job opportunities of its citizens, by reducing, controlling and preventing environmental pollution and waste of resources and by protecting and enhancing the tax base on which state and local governments depend for the financing of public services.

Subd. 3. Neither the state nor any other agency or political subdivision of the state shall be liable on any bond, note or other obligation of the agency, and no bond, note, or other obligation of the agency shall constitute a debt or loan of credit of the state or any political subdivision or any individual member of the agency.

Subd. 4. The state pledges and agrees with all holders of obligations of the agency that it will not limit or alter the rights vested in the agency to fulfill their terms, and will not in any way impair the rights or remedies of the holders, until all of the obligations and interest on them, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of such holders to enforce the payment and other provisions of the obligations, are fully met and discharged. The agency is authorized to include and recite this pledge and agreement of the state in any obligation or related document.

Subd. 5. The provisions of this section do not affect the power of the state to supervise and control the agency or to discontinue its operation or alter its organization, programs or activities or transfer its powers to a successor agency, provided that the action of the state is consistent with the provisions of subdivision 4 and that title to all property then owned by the agency will remain or vest in the agency, its successor or the state, as the case may be.

Subd. 6. The property of the agency and its income and operation shall be exempt from all taxation by the state or any of its political subdivisions and all bonds and notes of the agency shall be exempt from all taxation by the state or any of its political subdivisions.

Subd. 7. The state covenants with the purchasers and all subsequent holders and transferees of notes and bonds issued by the agency in consideration of the acceptance of and payment for the notes and bonds, that the notes and bonds of the agency issued pursuant to sections 362.50 to 362.53 and the income therefrom and all its fees, charges, gifts, grants, revenues, receipts, and other moneys received or to be received, pledges to pay or secure the payment of such notes or bonds shall at all times be free and exempt from all state, city, county or other taxation provided by the laws of the state, except for estate and gift taxes and taxes on transfers, and except for the Minnesota corporate franchise tax measured by income, so long as the interest on federal bonds is included in the income by which such tax is measured.

Subd. 8. The members and governing body of the agency shall be the commissioner of economic development and six other members holding no other elective or appointive office of the state or any local government, appointed by the governor with advice and consent of the senate. The commissioner shall be vice chairman, and the governor shall designate the chairman from among the other members, to serve as chairman at the pleasure of the governor. Section 15.0575, governs the terms, compensation, removal and filling of vacancies in the offices of members other than the commissioner.

Subd. 9. The members shall be responsible for management and control of the agency. A majority of the members, excluding vacant memberships, is a quorum. When a quorum is present at any meeting of which notice has been given to or waived by all absent members in the manner provided in bylaws adopted by the vote of a majority of all members, any action of the agency may

be taken by the vote of a majority of the members present. Fewer than a quorum may hear reports and adjourn from time to time.

Subd. 10. The commissioner of economic development shall designate an assistant commissioner as executive director of the agency and may appoint permanent and temporary employees necessary for the administration of the agency. The governing body of the agency may enter into agreements under which the department will provide administrative support for the agency.

History: 1980 c 547 s 2

362.52 LOANS.

Subdivision 1. The agency may make or purchase or participate with financial institutions in making or purchasing business loans and pollution control loans upon the conditions described in this section, and may enter into commitments therefor.

Subd. 2. The agency may participate with financial institutions in making or purchasing business loans not exceeding \$1,000,000 in principal amount, to be serviced by such institutions, provided that:

(a) The agency's share shall not exceed 90 percent of the total principal amount, and shall be payable with interest at the same times but not necessarily at the same interest rate as the share of the financial institution, and both shares shall be equally and ratably secured by a valid mortgage on or security interest in real and personal property;

(b) The total principal amount shall not exceed 90 percent of the value of the property securing the loan, unless the amount in excess of 90 percent is:

(1) Loaned from available funds which are not proceeds received directly from the sale of the agency's bonds or notes and are not restricted under the terms of any resolution or indenture securing bonds or notes, or

(2) Insured or guaranteed by a federal agency or by a private insurer qualified to write such insurance in the state, insuring a percentage of any claim for loss at least equal to that percentage of the value by which the loan exceeds 90 percent thereof;

(c) The value of the property securing the loan shall be certified by the participating financial institution, on the basis of such appraisals, bids, purchase orders, and engineers' certificates as the agency may require; provided that the value of items purchased and constructed from the proceeds of the loan shall not be deemed to exceed the contract price of purchase or construction;

(d) The agency shall not disburse funds under a commitment to participate in a loan for the construction or substantial improvement of property until the construction or improvement has been completed in accordance with plans and specifications, unless the financial institution furnishes an irrevocable letter of credit or a qualified corporate surety furnishes payment and performance bonds, satisfactory to the agency and in an aggregate amount equal to the amount payable under the construction contract; and

(e) No other indebtedness may be secured by a mortgage on or security interest in property securing a business loan made or purchased pursuant to this subdivision.

Subd. 3. The agency may make business loans not exceeding \$100,000 in principal amount, provided that each such loan shall be made only from the proceeds of a bond or note sold and issued to a financial institution, payable exclusively from the repayments of principal and interest on the loan, which shall be assigned to and serviced by the financial institution.

Subd. 4. The agency may make pollution control loans not exceeding \$500,000 in principal amount, when evidenced and secured by qualified contracts

under which the full amount of payments due is guaranteed or to be guaranteed, as a full faith and credit obligation of the United States, by the United States small business administration or by another agency or instrumentality of the United States to which the same or similar power may be granted.

Subd. 5. The agency shall make every effort to assure that at least 50 percent of the principal amount of the loans made or purchased by the agency in each fiscal year consists of loans with a principal amount of \$100,000 or less to eligible small businesses as defined in section 362.50, subdivision 5, and shall provide technical assistance needed by eligible small business owners to complete applications and meet other requirements for those loans. The agency shall report to the legislature annually on or before October 1 as to its compliance with the requirements of this subdivision during the preceding fiscal year.

Subd. 6. (a) Each financial institution which participates in a pollution control or business loan with the agency shall annually on or before March 1 submit a report for the prior calendar year to the agency on a form prescribed by the state auditor. The report shall include a listing of each new and outstanding loan in which the financial institution is a participant, the amount and terms of the loan, the purpose of the loan and any other information as the state auditor may reasonably require.

(b) The agency shall annually on or before May 1 submit a report on a form prescribed by the state auditor for the prior calendar year to the state auditor on all loans which it makes purchases or participates in. The report shall include a listing of each new and outstanding loan in which the financial institution is a participant, the amount and terms of the loan, the purpose of the loan and any other information as the state auditor may reasonably require.

(c) The state auditor shall annually on or before July 1 submit a report for the prior calendar year to the governor and the legislature summarizing the report submitted pursuant to clause (b).

(d) The cost of preparing and submitting the reports required by this subdivision shall be borne by the party submitting it. Any financial institution which fails to comply with the requirements of this subdivision shall be prohibited from participating in future loans until it complies.

History: 1980 c 547 s 3; 1980 c 618 s 17

362.53 POWERS; DUTIES.

Subdivision 1. In implementing its corporate purposes and the programs described in sections 362.132 and 362.50 to 362.53, the agency shall have the powers and duties set forth in this section.

Subd. 2. It may sue and be sued.

Subd. 3. It may have a seal and alter the same at will.

Subd. 4. It may adopt, amend and repeal rules not inconsistent with the provisions of sections 362.132 and 362.50 to 362.53 as necessary to effectuate its corporate purposes.

Subd. 5. It may acquire, hold and dispose of personal property for its corporate purposes.

Subd. 6. It may enter into agreements or other transactions with any federal or state agency, any person and any domestic or foreign partnership, corporation, association or organization.

Subd. 7. It may acquire real property, or an interest therein, in its own name, by purchase or foreclosure, where such acquisition is necessary or appropriate to protect any loan in which the agency has an interest and may sell, transfer and convey any such property to a buyer and, in the event such sale, transfer or conveyance cannot be effected with reasonable promptness or at a reasonable price, may lease such property to a tenant.

Subd. 8. It may sell, at public or private sale, any note, mortgage or other instrument or obligation evidencing or securing a loan.

Subd. 9. It may procure insurance against any loss in connection with its property in such amounts, and from such insurers, as may be necessary or desirable.

Subd. 10. It may consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purpose, to the modification of the rate of interest, time of payment or any installment of principal or interest, or any other term, of any mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract or agreement of any kind to which the agency is a party.

Subd. 11. It may borrow money to carry out and effectuate its corporate purpose and may issue its negotiable bonds or notes as evidence of any such borrowing in accordance with sections 462A.08 to 462A.13, 462A.16 and 462A.17, all with the force and effect stated and the incidental powers granted and duties imposed in those sections. The aggregate principal amount of the agency's bonds and notes outstanding at any one time, excluding the amount satisfied and discharged by payment or provision for payment in accordance with their terms, and deducting amounts held in debt service reserve funds therefor, shall not exceed \$30,000,000 unless authorized by another law.

Subd. 12. It may issue and sell bonds, notes and other obligations payable solely from particular moneys, assets or revenues derived from its programs notwithstanding section 462A.08, subdivision 3. Obligations issued to participate in making or purchasing business loans pursuant to section 362.52, subdivision 2, shall be payable solely from revenues derived by the agency from repayments of such loans and from enforcement of the security therefor, or from a general reserve fund irrevocably pledged and appropriated to pay principal and interest due, for which other funds are not available. No such obligations shall be issued at any time unless the amount then held or then deposited in the general reserve fund equals at least ten percent of the aggregate principal amount of all such obligations then issued and then outstanding.

Subd. 13. It may sell any of its obligations at public or private sale, at such price or prices as the agency shall determine, notwithstanding the limitation on sale price in the fourth sentence of section 462A.09.

Subd. 14. It may establish and collect reasonable interest and amortization payments on loans, and in connection therewith may establish and collect or authorize the collection of reasonable fees and charges or require funds to be placed in escrow, sufficient to provide for the payment and security of its bonds, notes, commitments and other obligations and for the servicing thereof, to provide reasonable allowances for or insurance against losses which may be incurred and to cover the cost of issuance of obligations and technical, consultative and project assistance services. It shall require the payment of all processing, administrative and guarantee fees and the deposit in escrow of all funds required by the small business administration or other federal agency or instrumentality guaranteeing any loan and shall comply and enforce compliance with all terms and conditions of each guarantee, and the prompt filing of all claims which may arise thereunder.

Subd. 15. It may cause any funds not required for immediate disbursement to be invested in direct obligations of or obligations guaranteed as to principal and interest by the United States, or in insured savings accounts, up to the amount of the insurance, in any institution the accounts of which are insured by the federal savings and loan insurance corporation or to be deposited in a savings or other account in a bank insured by the federal deposit insurance corporation or to be invested in time certificates of deposit issued by a bank insured by the federal deposit insurance corporation and maturing within one year or less.

It may deposit funds in excess of the amount insured with security as provided in chapter 118. Notwithstanding the foregoing, it may invest and deposit funds into accounts established pursuant to resolutions or indentures securing its bonds or notes in such investments and deposit accounts or certificates, and with such security, as may be agreed therein with the holders or a trustee for the holders.

Subd. 16. It may provide general consultative and technical services to assist in financing small business facilities for which loans may be made pursuant to section 362.52. It may enter into agreements or other transactions concerning the receipt or provision of those services.

Subd. 17. Financial information, including, but not limited to, credit reports, financial statements and net worth calculations, received or prepared by the agency regarding any project loan is private data on individuals as defined in section 15.162, subdivision 5a.

Subd. 18. It may accept appropriations, gifts, grants, bequests and devises and use or dispose of them for its corporate purposes.

Subd. 19. All proceeds of the agency's bonds, notes and other obligations, any amounts granted or appropriated to the agency for the making or purchase or the insurance or guaranty of loans or for bond reserves, all income from their investment and all revenues from loans, fees and charges of the agency are annually appropriated to the agency for the accomplishment of its corporate purposes and shall be expended, administered and accounted for in accordance with the applicable provisions of all bond and note resolutions, indentures and other instruments, contracts, and agreements of the agency. Notwithstanding section 16A.28, these appropriations are available until expended.

History: 1980 c 547 s 4