

## CHAPTER 116J

### DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT

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#### 116J.011 MISSION.

The mission of the department of trade and economic development is to employ all of the available state government resources to facilitate an economic environment that produces net new job growth in excess of the national average and to increase nonresident and resident tourism revenues. It is part of the department's mission that within the department's resources the commissioner shall endeavor to:

- (1) prevent the waste or unnecessary spending of public money;
- (2) use innovative fiscal and human resource practices to manage the state's resources and operate the department as efficiently as possible;
- (3) coordinate the department's activities wherever appropriate with the activities of other governmental agencies;
- (4) use technology where appropriate to increase agency productivity, improve customer service, increase public access to information about government, and increase public participation in the business of government;
- (5) utilize constructive and cooperative labor-management practices to the extent otherwise required by chapters 43A and 179A;
- (6) include specific objectives in the performance report required under section 15.91 to increase the efficiency of agency operations, when appropriate; and
- (7) recommend to the legislature, in the performance report of the department required under section 15.91, appropriate changes in law necessary to carry out the mission of the department.

**History:** 1995 c 248 art 11 s 8

#### 116J.035 DUTIES AND POWERS OF COMMISSIONER; RULES.

Subdivision 1. **Powers.** The commissioner may:

- (a) apply for, receive, and expend money from municipal, county, regional, and other government agencies;
- (b) apply for, accept, and disburse grants and other aids from other public or private sources;
- (c) contract for professional services if such work or services cannot be satisfactorily performed by employees of the department or by any other state agency;
- (d) enter into interstate compacts to jointly carry out such research and planning with other states or the federal government where appropriate;
- (e) distribute informational material at no cost to the public upon reasonable request; and
- (f) enter into contracts necessary for the performance of the commissioner's duties with federal, state, regional, metropolitan, local, and other agencies or units of government; educational institutions, including the University of Minnesota. Contracts made pursuant to this section shall not be subject to the competitive bidding requirements of chapter 16B.

The commissioner may apply for, receive, and expend money made available from federal or other sources for the purpose of carrying out the duties and responsibilities of the commissioner pursuant to this chapter.

All moneys received by the commissioner pursuant to this chapter shall be deposited in the state treasury and are appropriated to the commissioner for the purpose for which the moneys have been received. The money shall not cancel and shall be available until expended.

*[For text of subd 2, see M.S.1994]*

**History:** 1995 c 186 s 34

#### **116J.402 COOPERATIVE CONTRACTS.**

The commissioner of trade and economic development may apply for, receive, and spend money for community development from municipal, county, regional, and other planning agencies. The commissioner may also apply for, accept, and disburse grants and other aids for community development and related planning from the federal government and other sources. The commissioner may enter into contracts with agencies of the federal government, local governmental units, regional development commissions, and the metropolitan council, other state agencies, the University of Minnesota, and other educational institutions, and private persons as necessary to perform the commissioner's duties. Contracts made according to this section, except those with private persons, are not subject to the provisions of chapter 16B concerning competitive bidding.

The commissioner may apply for, receive, and spend money made available from federal sources or other sources for the purposes of carrying out the duties and responsibilities of the commissioner.

Money received by the commissioner under this section must be deposited in the state treasury and is appropriated to the commissioner for the purposes for which the money has been received. The money does not cancel and is available until spent.

**History:** 1995 c 186 s 35

#### **116J.541 REPORT ON THE EFFECT OF TAX INCENTIVES UPON THE NUMBER OF JOBS.**

On a biennial basis, the commissioner of trade and economic development shall analyze the effect of all business related tax reductions or waivers on the aggregate number of jobs created and wages paid in those new jobs. The commissioner of trade and economic development shall present the results of the analysis to the legislature.

**History:** 1995 c 264 art 5 s 2

#### **116J.542 GOALS FOR NEW TAX EXPENDITURES.**

Each newly enacted business related tax expenditure must include measurable goals for jobs and wages and require a biennial review conducted by the commissioner of trade and economic development for continuation based upon meeting those goals. The commissioner of trade and economic development shall report the results of the review to the legislature.

**History:** 1995 c 264 art 5 s 3

#### **116J.552 DEFINITIONS.**

*[For text of subd 1, see M.S.1994]*

Subd. 2. **Cleanup costs.** "Cleanup costs" or "costs" means the costs of developing and implementing a response action plan, but does not include implementation costs incurred before the award of a grant unless the application for the grant was submitted within 180 days after the response action plan was approved by the commissioner of the pollution control agency.

*[For text of subs 3 to 8, see M.S.1994]*

**History:** 1995 c 224 s 53; 1995 c 255 art 2 s 1

**116J.554 GRANTS.**

*[For text of subd 1, see M.S.1994]*

Subd. 1a. **Metropolitan livable communities.** The commissioner may not make a grant to a municipality in the metropolitan area unless it is participating in the local housing incentives program under section 473.254.

*[For text of subd 2, see M.S.1994]*

**History:** 1995 c 255 art 2 s 3

**116J.555 PRIORITIES.**

*[For text of subd 1, see M.S.1994]*

Subd. 2. **Application cycles; reporting to LCWM.** (a) In making grants, the commissioner shall establish semiannual application deadlines in which grants will be authorized from all or part of the available appropriations of money in the account.

(b) After each semiannual cycle in which grants are awarded, the commissioner shall report to the legislative commission on waste management the grants awarded and appropriate supporting information describing each grant made. This report must be made within 30 days after the grants are awarded.

(c) The commissioner shall annually report to the legislative commission on the status of the cleanup projects undertaken under grants made under the programs. The commissioner shall include in the annual report information on the cleanup and development activities undertaken for the grants made in that and previous fiscal years. The commissioner shall make this report no later than 120 days after the end of the fiscal year.

**History:** 1995 c 224 s 54; 1995 c 255 art 2 s 2

**116J.556 LOCAL MATCH REQUIREMENT.**

(a) In order to qualify for a grant under sections 116J.551 to 116J.557, the municipality must pay for at least one-half of the project costs as a local match. The municipality shall pay an amount of the project costs equal to at least 12 percent of the cleanup costs from the municipality's general fund, a property tax levy for that purpose, or other unrestricted money available to the municipality (excluding tax increments). These unrestricted moneys may be spent for project costs, other than cleanup costs, and qualify for the local match payment equal to 12 percent of cleanup costs. The rest of the local match may be paid with tax increments, regional, state, or federal money available for the redevelopment of brownfields or any other money available to the municipality.

(b) If the development authority establishes a tax increment financing district or hazardous substance subdistrict on the site to pay for part of the local match requirement, the district or subdistrict is not subject to the state aid reductions under section 273.1399. In order to qualify for the exemption from the state aid reductions, the municipality must elect, by resolution, on or before the request for certification is filed that all tax increments from the district or subdistrict will be used exclusively to pay (1) for project costs for the site and (2) administrative costs for the district or subdistrict. The district or subdistrict must be decertified when an amount of tax increments equal to no more than three times the costs of implementing the response action plan for the site and the administrative costs for the district or subdistrict have been received, after deducting the amount of the state grant.

**History:** 1995 c 255 art 2 s 4

**116J.58 POWERS AND DUTIES.**

Subdivision 1. **Enumeration.** The commissioner 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 commissioner 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 the 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) cooperate with interstate commissions engaged in formulating and promoting the adoption of interstate compacts and agreements helpful to business, industry, and commerce;

(10) 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 the use, conservation, and development may be appropriately directed or influenced by a state agency;

(11) 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 the 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 the governor, 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;

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

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

(14) 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 a manner that seems wise;

(15) prepare an annual report to the legislature estimating and, to the extent possible, describing the number of Minnesota companies which have left the state or moved to surrounding states or other countries. The report should include an estimate of the number of jobs lost by these moves, an estimate of the total employment payroll, average hourly wage of those jobs lost and those created in the new location, and to the extent possible, the reasons for each company moving out of state, if known;

(16) publish documents and annually convene regional meetings to inform businesses, local government units, assistance providers, and other interested persons of changes in state and federal law related to economic development;

(17) annually convene conferences of providers of economic development related financial and technical assistance for the purposes of exchanging information on economic development assistance, coordinating economic development activities, and formulating economic development strategies;

(18) provide business with information on the economic benefits of energy conservation and on the availability of energy conservation assistance; and

(19) prepare, as part of biennial budget process with an annual interim summary for the legislature, performance measures for each business loan or grant program within the jurisdiction of the commissioner. Measures would include source of funds for each program, numbers of jobs proposed or promised at the time of application and the number of jobs created, estimated number of jobs retained, the average salary and benefits for the jobs resulting from the program, and the number of projects approved.

*[For text of subs 2 and 3, see M.S.1994]*

**History:** 1995 c 232 s 1

### **116J.581 COMPETITIVENESS TASK FORCE.**

Subdivision 1. **Creation.** There is created a permanent task force on the state's economic future and competitiveness. The task force is composed of the governor (ex officio); the commissioners of the departments of economic security, trade and economic development, commerce, and labor and industry; the chancellor of the board of trustees of the Minnesota state colleges and universities; the president of the largest statewide Minnesota organized labor organization as measured by the number of its members in affiliated labor organizations; the deans of the business schools at the University of Minnesota and St. Thomas University and the Hubert H. Humphrey Institute of Public Affairs; the science and technology advisor to the governor; six representatives from private sector businesses appointed by the governor, two from companies with more than 1,000 employees, two from companies with 101 to 1,000 employees, and two from companies with less than 100 employees; two members representing environmental interests; and designees of the majority leader of the senate and the minority leader of the house of representatives. The chair of the task force shall be elected by the members from the private sector members. Terms of private sector members shall be for a minimum of three years and a maximum of five years.

*[For text of subs 2 to 4, see M.S.1994]*

**History:** 1995 c 212 art 4 s 64

### **116J.655 YOUTH ENTREPRENEURSHIP EDUCATION PROGRAM.**

The commissioner of trade and economic development shall establish a youth entrepreneurship education program to improve the academic and entrepreneurial skills of students and aid in their transition from school to business creation. The program shall strengthen local economies by creating jobs that enable citizens to remain in their communities and to foster cooperation among educators, economic development professionals, business leaders, and representatives of labor. Assistance under this section shall be available to new or existing student-operated or school-operated businesses that have an educational purpose, and provide service or products for customers or clients who do not attend or work at the sponsoring school. The commissioner may require an equal local match for assistance under this section up to the maximum grant amount of \$20,000.

**History:** 1Sp1995 c 3 art 4 s 1

### **116J.693 ADVANTAGE MINNESOTA, INC.**

*[For text of subd 1, see M.S.1994]*

Subd. 2. **Board of directors.** (a) Advantage Minnesota, Inc. shall be governed by a board of directors consisting of voting and nonvoting members.

(b) The voting members of the board shall be:

(1) representatives of business, professional, and industry organizations that have been certified by the commissioner as having made a financial contribution to Advantage Minnesota, Inc. for their period of service in accordance with matching funds requirements established by the commissioner;

(2) representatives of labor organizations and educational institutions, if any, as designated from time to time by the board;

(3) the governor or a designee of the governor;

(4) the commissioner; and

(5) other persons, if any, as designated from time to time by the board.

(c) The nonvoting members of the board shall be the majority and minority leaders of the senate, the speaker of the house of representatives and the minority leader of the house of representatives, or their designees.

(d) Meetings of the board are subject to section 471.705.

**Subd. 3. Executive committee; employees.** (a) The board of directors shall create an executive committee of 12 members of the board including the commissioner, the vice-chair of the board of directors, and two members of the legislature. The president of the corporation shall be appointed by the executive committee and ratified by the board. The executive committee shall oversee the daily operations of the corporation.

(b) Meetings of the executive committee are subject to section 471.705 except when security, trade secret, potential client lists, pending proposals, negotiations, employee matters, or labor relations information are discussed.

(c) The employees of the corporation are not state employees.

**Subd. 4. Bylaws.** Bylaws of Advantage Minnesota, Inc. shall provide for the qualification and removal of directors, and for filling vacancies on the board in a manner not inconsistent with this section.

**Subd. 5. Other committees.** The executive committee may, by resolution, create one or more committees, each consisting of directors designated by the executive committee. The duties, responsibilities, and limitations of each committee shall be outlined in the resolution creating such committees.

*[For text of subs 6 to 8, see M.S.1994]*

**History:** 1995 c 232 s 2-5

## 116J.70 DEFINITIONS.

*[For text of subs 1 and 2, see M.S.1994]*

**Subd. 2a. License; exceptions.** "Business license" or "license" does not include the following:

(1) any occupational license or registration issued by a licensing board listed in section 214.01 or any occupational registration issued by the commissioner of health pursuant to section 214.13;

(2) any license issued by a county, home rule charter city, statutory city, township, or other political subdivision;

(3) any license required to practice the following occupation regulated by the following sections:

(a) abstracters regulated pursuant to chapter 386;

(b) accountants regulated pursuant to chapter 326;

(c) adjusters regulated pursuant to chapter 72B;

(d) architects regulated pursuant to chapter 326;

(e) assessors regulated pursuant to chapter 270;

(f) athletic trainers regulated pursuant to chapter 148;

(g) attorneys regulated pursuant to chapter 481;

(h) auctioneers regulated pursuant to chapter 330;

- (i) barbers regulated pursuant to chapter 154;
- (j) beauticians regulated pursuant to chapter 155A;
- (k) boiler operators regulated pursuant to chapter 183;
- (l) chiropractors regulated pursuant to chapter 148;
- (m) collection agencies regulated pursuant to chapter 332;
- (n) cosmetologists regulated pursuant to chapter 155A;
- (o) dentists, registered dental assistants, and dental hygienists regulated pursuant to chapter 150A;
- (p) detectives regulated pursuant to chapter 326;
- (q) electricians regulated pursuant to chapter 326;
- (r) embalmers regulated pursuant to chapter 149;
- (s) engineers regulated pursuant to chapter 326;
- (t) insurance brokers and salespersons regulated pursuant to chapter 60A;
- (u) certified interior designers regulated pursuant to chapter 326;
- (v) midwives regulated pursuant to chapter 148;
- (w) morticians regulated pursuant to chapter 149;
- (x) nursing home administrators regulated pursuant to chapter 144A;
- (y) optometrists regulated pursuant to chapter 148;
- (z) osteopathic physicians regulated pursuant to chapter 147;
- (aa) pharmacists regulated pursuant to chapter 151;
- (bb) physical therapists regulated pursuant to chapter 148;
- (cc) physician assistants regulated pursuant to chapter 147A;
- (dd) physicians and surgeons regulated pursuant to chapter 147;
- (ee) plumbers regulated pursuant to chapter 326;
- (ff) podiatrists regulated pursuant to chapter 153;
- (gg) practical nurses regulated pursuant to chapter 148;
- (hh) professional fund raisers regulated pursuant to chapter 309;
- (ii) psychologists regulated pursuant to chapter 148;
- (jj) real estate brokers, salespersons, and others regulated pursuant to chapters 82 and 83;
- (kk) registered nurses regulated pursuant to chapter 148;
- (ll) securities brokers, dealers, agents, and investment advisers regulated pursuant to chapter 80A;
- (mm) steamfitters regulated pursuant to chapter 326;
- (nn) teachers and supervisory and support personnel regulated pursuant to chapter 125;
- (oo) veterinarians regulated pursuant to chapter 156;
- (pp) water conditioning contractors and installers regulated pursuant to chapter 326;
- (qq) water well contractors regulated pursuant to chapter 1031;
- (rr) water and waste treatment operators regulated pursuant to chapter 115;
- (ss) motor carriers regulated pursuant to chapter 221;
- (tt) professional corporations regulated pursuant to chapter 319A;
- (uu) real estate appraisers regulated pursuant to chapter 82B;
- (vv) residential building contractors, residential remodelers, residential roofers, manufactured home installers, and specialty contractors regulated pursuant to chapter 326;
- (4) any driver's license required pursuant to chapter 171;
- (5) any aircraft license required pursuant to chapter 360;
- (6) any watercraft license required pursuant to chapter 86B;
- (7) any license, permit, registration, certification, or other approval pertaining to a regulatory or management program related to the protection, conservation, or use of or interference with the resources of land, air, or water, which is required to be obtained from a state agency or instrumentality; and

(8) any pollution control rule or standard established by the pollution control agency or any health rule or standard established by the commissioner of health or any licensing rule or standard established by the commissioner of human services.

**History:** 1995 c 186 s 36; 1995 c 205 art 2 s 1

### 116J.873 ECONOMIC RECOVERY GRANTS.

*[For text of subs 1 and 2, see M.S.1994]*

Subd. 3. **Grant evaluation.** The commissioner shall accept, review, and evaluate applications for grants to local units of government made in accordance with rules adopted for economic development grants in the small cities development program. Projects must be evaluated based on the existence of the following conditions:

(1) whether assistance is necessary to provide equity to business owners who do not have the capacity to invest in a project;

(2) whether there is an inability to secure sufficient financing from other public or private sources at market interest rates or on favorable market terms;

(3) whether assistance is necessary to attract out-of-state businesses or to retain existing business within the state; and

(4) whether there are excessive public infrastructure or improvement costs beyond the means of the affected community and private participants in the project.

A grant or loan cannot be made based solely on a finding that the condition in clause (3) exists. A finding must be made that a condition in clause (1), (2), or (4) also exists.

Applications recommended for funding shall be submitted to the commissioner.

*[For text of subd 4, see M.S.1994]*

Subd. 5. **Sports facility.** An economic recovery grant or loan cannot be used for a project related to a sports facility. For the purpose of this subdivision, "sports facility" means a building that has a professional sports team as a principal tenant.

**History:** 1995 c 224 s 55,56

### 116J.874 AFFIRMATIVE ENTERPRISE PROGRAM.

*[For text of subs 1 to 5, see M.S.1994]*

Subd. 6. [Repealed, 1995 c 224 s 126]

### 116J.982 COMMUNITY DEVELOPMENT CORPORATIONS.

*[For text of subs 1 and 2, see M.S.1994]*

Subd. 3. **Certification; corporations eligible.** (a) The commissioner shall certify a community development corporation under this section if the corporation is a nonprofit corporation incorporated under chapter 317A and meets the other criteria in this subdivision.

(b) The corporation, in its articles of incorporation or bylaws, must designate a low-income area as the specific geographic community within which it will operate. Within cities of the first class, a designated community must be an identifiable neighborhood or a combination of neighborhoods but may not be the entire city. Outside cities of the first class, a designated community may be an identifiable neighborhood or neighborhoods, or home rule charter or statutory cities, townships, unincorporated areas, or combinations of those entities, but may not be an entire economic development region nor cross existing economic development region boundaries except as provided in this section.

(c) The corporation's major purpose, in its articles of incorporation or bylaws, must be economic development, redevelopment, or housing in its designated community.

(d) The corporation must be tax exempt under section 501, paragraph (c), clause (3), of the Internal Revenue Code of 1986, as amended.

(e) The membership and board of directors of the corporation must be representative of the designated community. At least 20 percent of the directors shall have low incomes or



shall reside in low-income areas described in subdivision 1, paragraph (e), clause (1), or the low-income subarea described in subdivision 1, paragraph (e), clause (2). At least 60 percent of the directors must be residents of, or be employed in, the designated community. Other directors shall be business, financial, or civic leaders or representatives-at-large of the designated community. At least 40 percent of the directors must reside in the designated community. Notwithstanding the requirements of this paragraph, a corporation which meets board structure requirements for a community housing development corporation under Code of Federal Regulations, title 24, part 92.2, is deemed to meet the board membership requirements of this subdivision.

(f) The corporation shall not discriminate against any persons on the basis of a status protected under chapter 363.

(g) The corporation shall demonstrate that it has or can obtain the technical skills to analyze projects, that it is familiar with available public and private funding sources and economic development, redevelopment, and housing programs, and that it is capable of packaging economic development, redevelopment, and housing projects.

(h) The corporation must have completed two or more economic development, redevelopment, or housing projects within its designated community during the last three years.

*[For text of subs 4 to 7a, see M.S.1994]*

**History:** 1995 c 224 s 57

#### **116J.991 PUBLIC ASSISTANCE TO BUSINESS; WAGE AND JOB REQUIREMENTS.**

A business that receives state or local government assistance for economic development or job growth purposes must create a net increase in jobs in Minnesota within two years of receiving the assistance.

The government agency providing the assistance must establish wage level and job creation goals to be met by the business receiving the assistance. A business that fails to meet the goals must repay the assistance to the government agency.

Each government agency must report the wage and job goals and the results for each project in achieving those goals to the department of trade and economic development. The department shall compile and publish the results of the reports for the previous calendar year by June 1 of each year. The reports of the agencies to the department and the compilation report of the department shall be made available to the public.

For the purpose of this section, "assistance" means a grant or loan in excess of \$25,000 or tax increment financing.

**History:** 1995 c 224 s 58