CHAPTER 469

ECONOMIC DEVELOPMENT

469.003 CITY HOUSING AND REDEVELOPMENT AUTHORITY.

[For text of subds 1 to 3, see M.S.2002]

Subd. 4. **Copy filed with commissioner of employment and economic development.** When the resolution becomes finally effective, the clerk of the city shall file a certified copy of it with the commissioner of employment and economic development. In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of an authority, the authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers upon that filing. Proof of the resolution and of that filing may be made in any such suit, action, or proceeding by a certificate of the commissioner of employment and economic development.

[For text of subds 5 and 6, see M.S.2002]

Subd. 7. **Certificate of appointment; filing.** Commissioners shall hold office until their successors have been appointed and qualified. A certificate of appointment of each commissioner shall be filed with the clerk and a certified copy shall be transmitted to the commissioner of employment and economic development. A certificate so filed shall be conclusive evidence of appointment.

History: *1Sp2003 c 4 s 1*

469.004 COUNTY AND MULTICOUNTY AUTHORITIES.

[For text of subds 1 to 4, see M.S.2002]

Subd. 5. **Function of authority.** A county or multicounty housing authority will serve, program, develop, and manage all housing programs under its jurisdiction.

Where a county or multicounty authority has been established, additional city housing and redevelopment authorities shall not be created within the area of operation of the county or multicounty authority without the explicit concurrence of the county or multicounty housing and redevelopment authority and the commissioner of employment and economic development. City housing and redevelopment authorities must petition the county or multicounty authority for authorization to establish a local housing authority and this petition must be approved by the commissioner of employment and economic development. This subdivision does not apply if a county or multicounty authority has not initiated or does not have in progress an active program or has not applied for a public housing, section 8, or redevelopment program from the federal government for a period of 12 months after its establishment.

Subd. 6. **Copy filed with commissioner of employment and economic development.** When the resolution becomes finally effective, the clerk of the political subdivision shall file a certified copy with the commissioner of employment and economic development. The provisions of section 469.003, subdivision 4, regarding establishment of authorities apply to filings under this subdivision.

History: *1Sp2003 c 4 s 1*

469.006 APPOINTMENT, QUALIFICATIONS, TENURE OF COMMISSIONERS.

[For text of subds 1 and 2, see M.S.2002]

Subd. 3. **Certificates of appointment.** A certified copy of the certificate of appointment of each commissioner shall be filed with the commissioner of employment and economic development.

History: *1Sp2003 c 4 s 1*

469.012 POWERS, DUTIES.

Subdivision 1. **Schedule of powers.** An authority shall be a public body corporate and politic and shall have all the powers necessary or convenient to carry out the purposes of sections 469.001 to 469.047, except that the power to levy and collect taxes or special assessments is limited to the power provided in sections 469.027 to 469.033. Its powers include the following powers in addition to others granted in sections 469.001 to 469.047:

(1) to sue and be sued; to have a seal, which shall be judicially noticed, and to alter it; to have perpetual succession; and to make, amend, and repeal rules consistent with sections 469.001 to 469.047;

(2) to employ an executive director, technical experts, and officers, agents, and employees, permanent and temporary, that it requires, and determine their qualifications, duties, and compensation; for legal services it requires, to call upon the chief law officer of the city or to employ its own counsel and legal staff; so far as practicable, to use the services of local public bodies in its area of operation, provided that those local public bodies, if requested, shall make the services available;

(3) to delegate to one or more of its agents or employees the powers or duties it deems proper;

(4) within its area of operation, to undertake, prepare, carry out, and operate projects and to provide for the construction, reconstruction, improvement, extension, alteration, or repair of any project or part thereof;

(5) subject to the provisions of section 469.026, to give, sell, transfer, convey, or otherwise dispose of real or personal property or any interest therein and to execute leases, deeds, conveyances, negotiable instruments, purchase agreements, and other contracts or instruments, and take action that is necessary or convenient to carry out the purposes of these sections;

(6) within its area of operation, to acquire real or personal property or any interest therein by gifts, grant, purchase, exchange, lease, transfer, bequest, devise, or otherwise, and by the exercise of the power of eminent domain, in the manner provided by chapter 117, to acquire real property which it may deem necessary for its purposes,

after the adoption by it of a resolution declaring that the acquisition of the real property is necessary to eliminate one or more of the conditions found to exist in the resolution adopted pursuant to section 469.003 or to provide decent, safe, and sanitary housing for persons of low and moderate income, or is necessary to carry out a redevelopment project. Real property needed or convenient for a project may be acquired by the authority for the project by condemnation pursuant to this section. Prior to adoption of a resolution authorizing acquisition of property by condemnation, the governing body of the authority must hold a public hearing on the proposed acquisition after published notice in a newspaper of general circulation in the municipality, which must be made at least one time not less than ten days nor more than 30 days prior to the date of the hearing. The notice must reasonably describe the property to be acquired and state that the purpose of the hearing is to consider acquisition by exercise of the authority's powers of eminent domain. Not less than ten days before the hearing, notice of the hearing must also be mailed to the owner of each parcel proposed to be acquired, but failure to give mailed notice or any defects in the notice does not invalidate the acquisition. For the purpose of giving mailed notice, owners are determined in accordance with section 429.031, subdivision 1, paragraph (a). Property acquired by condemnation under this section may include any property devoted to a public use, whether or not held in trust, notwithstanding that the property may have been previously acquired by condemnation or is owned by a public utility corporation, because the public use in conformity with the provisions of sections 469.001 to 469.047 shall be deemed a superior public use. Property devoted to a public use may be so acquired only if the governing body of the municipality has approved its acquisition by the authority. An award of compensation shall not be increased by reason of any increase in the value of the real property caused by the assembly, clearance or reconstruction, or proposed assembly, clearance or reconstruction for the purposes of sections 469.001 to 469.047 of the real property in an area;

(7) within its area of operation, and without the adoption of an urban renewal plan, to acquire, by all means as set forth in clause (6) but without the adoption of a resolution provided for in clause (6), real property, and to demolish, remove, rehabilitate, or reconstruct the buildings and improvements or construct new buildings and improvements thereon, or to so provide through other means as set forth in Laws 1974, chapter 228, or to grade, fill, and construct foundations or otherwise prepare the site for improvements. The authority may dispose of the property pursuant to section 469.029, provided that the provisions of section 469.029 requiring conformance to an urban renewal plan shall not apply. The authority may finance these activities by means of the redevelopment project fund or by means of tax increments or tax increment bonds or by the methods of financing provided for in section 469.033 or by means of contributions from the municipality provided for in section 469.041, clause (9), or by any combination of those means. Real property with buildings or improvements thereon shall only be acquired under this clause when the buildings or improvements are substandard. The exercise of the power of eminent domain under this clause shall be limited to real property which contains, or has contained within the three years immediately preceding the exercise of the power of eminent domain and is currently vacant, buildings and improvements which are vacated and substandard. Notwithstanding the prior sentence, in cities of the first class the exercise of the power of eminent domain under this clause shall be limited to real property which contains, or has contained within the three years immediately preceding the exercise of the power of eminent domain, buildings and improvements which are substandard. For the purpose of this clause, substandard buildings or improvements mean hazardous buildings as defined in section 463.15, subdivision 3, or buildings or improvements that are dilapidated or obsolescent, faultily designed, lack adequate ventilation, light, or sanitary facilities, or any combination of these or other factors that are detrimental to the safety or health of the community. The exercise of the power of eminent domain under this clause is subject to the notice and hearing requirements described in clause (6);

(8) within its area of operation, to determine the level of income constituting low or moderate family income. The authority may establish various income levels for

various family sizes. In making its determination, the authority may consider income levels that may be established by the Department of Housing and Urban Development or a similar or successor federal agency for the purpose of federal loan guarantees or subsidies for persons of low or moderate income. The authority may use that determination as a basis for the maximum amount of income for admissions to housing development projects or housing projects owned or operated by it;

(9) to provide in federally assisted projects any relocation payments and assistance necessary to comply with the requirements of the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and any amendments or supplements thereto;

(10) to make an agreement with the governing body or bodies creating the authority which provides exemption from all ad valorem real and personal property taxes levied or imposed by the body or bodies creating the authority. In the case of low-rent public housing that received financial assistance under the United States Housing Act of 1937, or successor federal legislation, an authority may make an agreement with the governing body or bodies creating the authority to provide exemption from all real and personal property taxes levied or imposed by the state, city, county, or other political subdivision, for which the authority shall make payments in lieu of taxes to the state, city, county, or other political subdivisions as provided in section 469.040. The governing body shall agree on behalf of all the applicable governing bodies affected that local cooperation as required by the federal government shall be provided by the local governing body or bodies in whose jurisdiction the project is to be located, at no cost or at no greater cost than the same public services and facilities furnished to other residents;

(11) to cooperate with or act as agent for the federal government, the state or any state public body, or any agency or instrumentality of the foregoing, in carrying out any of the provisions of sections 469.001 to 469.047 or of any other related federal, state, or local legislation; and upon the consent of the governing body of the city to purchase, lease, manage, or otherwise take over any housing project already owned and operated by the federal government;

(12) to make plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements, and plans for the enforcement of laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements, and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements. The authority may develop, test, and report methods and techniques, and carry out demonstrations and other activities for the prevention and elimination of slums and blight;

(13) to borrow money or other property and accept contributions, grants, gifts, services, or other assistance from the federal government, the state government, state public bodies, or from any other public or private sources;

(14) to include in any contract for financial assistance with the federal government any conditions that the federal government may attach to its financial aid of a project, not inconsistent with purposes of sections 469.001 to 469.047, including obligating itself (which obligation shall be specifically enforceable and not constitute a mortgage, notwithstanding any other laws) to convey to the federal government the project to which the contract relates upon the occurrence of a substantial default with respect to the covenants or conditions to which the authority is subject; to provide in the contract that, in case of such conveyance, the federal government may complete, operate, manage, lease, convey, or otherwise deal with the project until the defaults are cured if the federal government agrees in the contract to reconvey to the authority the project as then constituted when the defaults have been cured;

(15) to issue bonds for any of its corporate purposes and to secure the bonds by mortgages upon property held or to be held by it or by pledge of its revenues, including grants or contributions;

(16) to invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks

may legally invest funds subject to their control or in the manner and subject to the conditions provided in section 118A.04 for the deposit and investment of public funds;

(17) within its area of operation, to determine where blight exists or where there is unsafe, unsanitary, or overcrowded housing;

(18) to carry out studies of the housing and redevelopment needs within its area of operation and of the meeting of those needs. This includes study of data on population and family groups and their distribution according to income groups, the amount and quality of available housing and its distribution according to rentals and sales prices, employment, wages, desirable patterns for land use and community growth, and other factors affecting the local housing and redevelopment needs and the meeting of those needs; to make the results of those studies and analyses available to the public and to building, housing, and supply industries;

(19) if a local public body does not have a planning agency or the planning agency has not produced a comprehensive or general community development plan, to make or cause to be made a plan to be used as a guide in the more detailed planning of housing and redevelopment areas;

(20) to lease or rent any dwellings, accommodations, lands, buildings, structures, or facilities included in any project and, subject to the limitations contained in sections 469.001 to 469.047 with respect to the rental of dwellings in housing projects, to establish and revise the rents or charges therefor;

(21) to own, hold, and improve real or personal property and to sell, lease, exchange, transfer, assign, pledge, or dispose of any real or personal property or any interest therein;

(22) to insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards;

(23) to procure or agree to the procurement of government insurance or guarantees of the payment of any bonds or parts thereof issued by an authority and to pay premiums on the insurance;

(24) to make expenditures necessary to carry out the purposes of sections 469.001 to 469.047;

(25) to enter into an agreement or agreements with any state public body to provide informational service and relocation assistance to families, individuals, business concerns, and nonprofit organizations displaced or to be displaced by the activities of any state public body;

(26) to compile and maintain a catalog of all vacant, open and undeveloped land, or land which contains substandard buildings and improvements as that term is defined in clause (7), that is owned or controlled by the authority or by the governing body within its area of operation and to compile and maintain a catalog of all authority owned real property that is in excess of the foreseeable needs of the authority, in order to determine and recommend if the real property compiled in either catalog is appropriate for disposal pursuant to the provisions of section 469.029, subdivisions 9 and 10;

(27) to recommend to the city concerning the enforcement of the applicable health, housing, building, fire prevention, and housing maintenance code requirements as they relate to residential dwelling structures that are being rehabilitated by low- or moderate-income persons pursuant to section 469.029, subdivision 9, for the period of time necessary to complete the rehabilitation, as determined by the authority;

(28) to recommend to the city the initiation of municipal powers, against certain real properties, relating to repair, closing, condemnation, or demolition of unsafe, unsanitary, hazardous, and unfit buildings, as provided in section 469.041, clause (5);

(29) to sell, at private or public sale, at the price or prices determined by the authority, any note, mortgage, lease, sublease, lease purchase, or other instrument or obligation evidencing or securing a loan made for the purpose of economic development, job creation, redevelopment, or community revitalization by a public agency to a business, for-profit or nonprofit organization, or an individual;

(30) within its area of operation, to acquire and sell real property that is benefited by federal housing assistance payments, other rental subsidies, interest reduction payments, or interest reduction contracts for the purpose of preserving the affordability of low- and moderate-income multifamily housing;

(31) to apply for, enter into contracts with the federal government, administer, and carry out a section 8 program. Authorization by the governing body creating the authority to administer the program at the authority's initial application is sufficient to authorize operation of the program in its area of operation for which it was created without additional local governing body approval. Approval by the governing body or bodies creating the authority constitutes approval of a housing program for purposes of any special or general law requiring local approval of Section 8 programs undertaken by city, county, or multicounty authorities;

(32) to secure a mortgage or loan for a rental housing project by obtaining the appointment of receivers or assignments of rents and profits under sections 559.17 and 576.01, except that the limitation relating to the minimum amounts of the original principal balances of mortgages specified in sections 559.17, subdivision 2, clause (2); and 576.01, subdivision 2, does not apply; and

(33) to become members or shareholders in and enter into or form limited partnerships, limited liability companies, or corporations for the purpose of developing, constructing, rehabilitating, managing, supporting, or preserving housing projects and housing development projects, including low-income housing tax credit projects. These limited partnerships, limited liability companies, or corporations are subject to all of the provisions of sections 469.001 to 469.047 and other laws that apply to housing and redevelopment authorities, as if the limited partnership, limited liability company, or corporation were a housing and redevelopment authority.

[For text of subds 3 to 7, see M.S.2002]

Subd. 8. **Interest reduction program; limitations.** In developing the interest reduction program authorized by subdivision 7 the authority shall consider:

(1) the availability and affordability of other governmental programs;

(2) the availability and affordability of private market financing; and

(3) the need for additional affordable mortgage credit to encourage the construction and enable the purchase of housing units within the jurisdiction of the authority.

The authority shall adopt rules for the interest reduction program. Interest reduction assistance shall not be provided if the authority determines that financing for the purchase of a housing unit or for the construction or rehabilitation of housing units is otherwise available from private lenders upon terms and conditions that are affordable by the applicant, as provided by the authority in its rules.

For the purposes of this subdivision an "assisted housing unit" is a housing unit which is rented or to be rented and which is a part of a rental housing development where the financing for the rental housing development is assisted with interest reduction assistance provided by the authority during the calendar year. If interest reduction assistance is provided for construction period interest for a rental housing development, the housing units in the housing development shall be considered assisted housing units for a period after occupancy of the housing units which is equal to the period during which interest reduction assistance is provided to assist the construction financing of the rental housing development. In any calendar year when an authority provides interest reduction assistance for assisted housing units (1) at least 20 percent of the total assisted housing units within the jurisdiction of the authority shall be held available for rental to families or individuals with an adjusted gross income which is equal to or less than 80 percent of the median family income, and (2) at least an additional 55 percent of the total assisted housing units within the jurisdiction of the authority shall be held available for rental to individuals or families with an annual adjusted gross income which is equal to or less than 66 times 120 percent of the monthly fair market rent for the unit established by the United States Department of Housing and Urban Development. At least 80 percent of the aggregate dollar amount

of funds appropriated by an authority within any calendar year to provide interest reduction assistance for financing of construction, rehabilitation, or purchase of single family housing, as that term is defined in section 462C.02, subdivision 4, shall be appropriated for housing units that are to be sold to or occupied by families or individuals with an adjusted gross income which is equal to or less than 110 percent of median family income. For the purposes of this subdivision, "median family income" means the median family income established by the United States Department of Housing and Urban Development for the nonmetropolitan county or the standard metropolitan statistical area, as the case may be. The adjusted gross income must be adjusted by the authority for family size. The limitations imposed upon assisted housing units by this subdivision do not apply to interest reduction assistance for a rental housing development located in a targeted area as defined in section 462C.02. An authority that establishes a program pursuant to this subdivision shall by January 2 each year report to the commissioner of employment and economic development a description of the program established and a description of the recipients of interest reduction assistance.

[For text of subds 9 to 13, see M.S.2002]

History: *2003 c 50 s 1; 1Sp2003 c 4 s 1*

469.013 ACCOUNTING.

Subdivision 1. **Annual reports, duties of state auditor.** Each authority shall keep an accurate account of all its activities and of all its receipts and expenditures. The authority shall annually, in January for accounts kept on a calendar year basis, and within 30 days of the end of its fiscal year for accounts kept on a fiscal year basis, make a report on the accounts to the commissioner of employment and economic development, the state auditor, and the governing body of the city. The reports shall be in a form prescribed by the commissioner of employment and economic development. All powers conferred and duties imposed upon the state auditor with respect to state and county officers, institutions, property, and improvements shall also be exercised and performed by the state auditor with respect to authorities, except the power to prescribe the form of reports or accounts provided in sections 469.001 to 469.047. The state auditor shall make audits of the low rent public housing funds of the authorities that are deemed to be in the public interest, and shall file a written report covering the audits with the authority, the city clerk of the municipality, and the commissioner of employment and economic development. The first report of the state auditor shall include all expenditures and activities of the local authority from the creation of the authority. Each authority shall be liable to the state and shall pay all costs and expenses of the examination, from funds available for those purposes.

Subd. 2. **Commissioner of employment and economic development; powers, duties.** The commissioner of employment and economic development may investigate the affairs of authorities and their dealings, transactions, and relationships. The commissioner may examine the properties and records of authorities and prescribe methods of accounting and the rendering of periodical reports in relation to projects undertaken by authorities. In prescribing the form of accounts the commissioner of employment and economic development shall take into consideration any requirements of the federal government under any contract with an authority. The commissioner of employment and economic development may adopt, amend, and repeal rules prescribing standards and stating principles governing the planning, construction, maintenance, and operation of projects by authorities. Compliance with sections 469.001 to 469.047 and the rules adopted by the commissioner of employment and economic development may be enforced by the commissioner by a proceeding in equity.

History: *1Sp2003 c 4 s 1*

469.018 RENTALS.

[For text of subd 1, see M.S.2002]

Subd. 2. **Realtors.** With respect to the management and operation of a housing project the authority may employ reliable real estate operators or firms or brokers or

the municipality to perform those services for it. No such real estate operators or firms or brokers or the municipality shall have any authority in tenant selection or the fixing of rentals. Each authority employing real estate operators or firms or brokers or the municipality shall require the execution of a contract of employment stating the terms and conditions under which the services are to be performed, which shall be subject to the approval of the commissioner of employment and economic development.

History: *1Sp2003 c 4 s 1*

469.022 ESTABLISHMENT OF INCOME RESTRICTION.

The dwellings in public low-rent housing shall be available solely for families whose net family income does not exceed the maximum net family income falling within the lowest 20 percent by number of all family incomes in the area of operation as such maximum net family income has been determined by the authority. Each year, this restriction shall be reexamined by the commissioner of employment and economic development, and a public hearing shall be held by the commissioner of employment and economic development to determine whether administrative or interpretive difficulties or unsatisfactory progress in the provision of low-rent housing or redevelopment require a modification of that income restriction. Upon the conclusion of that hearing, the commissioner shall modify the restriction set out in this section to the extent required to make satisfactory progress in the provision of low-rent housing or redevelopment.

History: *1Sp2003 c 4 s 1*

469.025 DEMOLITION OF UNSAFE OR UNSANITARY BUILDINGS.

No project for low-rent housing or the clearance of a blighted area involving the construction of new dwellings shall be undertaken by a housing authority unless, subsequent to the initiation of the project, there has been or will be elimination by demolition, condemnation, and effective closing, or compulsory repair, of unsafe or unsanitary buildings situated in the area of operation substantially equal in number to the number of dwelling units provided by the project. The elimination may, upon approval by the commissioner of employment and economic development, be deferred for a period determined by the commissioner if the shortage of decent, safe, or sanitary housing available to families of low income is so acute as to force dangerous overcrowding of those families.

History: *1Sp2003 c 4 s 1*

469.033 PUBLIC REDEVELOPMENT COST; PROCEEDS; FINANCING.

[For text of subds 1 to 6, see M.S.2002]

Subd. 7. **Inactive authorities; transfer of funds; dissolution.** The authority may transfer to the city in and for which it was created all property, assets, cash or other funds held or used by the authority which were derived from the special benefit tax for redevelopment levied pursuant to subdivision 6 prior to March 6, 1953, whenever collected. Upon any such transfer, an authority shall not thereafter levy the tax or exercise the redevelopment powers of sections 469.001 to 469.047. All cash or other funds transferred to the city shall be used exclusively for permanent improvements in the city or the retirement of debts or bonds incurred for permanent improvements in the city. An authority which transfers its property, assets, cash or other funds derived from the special benefit tax for redevelopment and which has not entered into a contract with the federal government with respect to any low rent public housing project prior to March 6, 1953, shall be dissolved as herein provided. After a public hearing after ten days published notice thereof in a newspaper of general circulation in the city, the governing body of a city in and for which an authority has been created may dissolve the authority if the authority has not entered into any contract with the federal government or any agency or instrumentality thereof for a loan or a grant with respect to any urban redevelopment or low rent public housing project. The resolution or ordinance dissolving the authority shall be published in the same manner in which

ordinances are published in the city and the authority shall be dissolved when the resolution or ordinance becomes finally effective. The clerk of the governing body of the municipality shall furnish to the commissioner of employment and economic development a certified copy of the resolution or ordinance of the governing body dissolving the authority. All property, records, assets, cash or other funds held or used by an authority shall be transferred to and become the property of the municipality and cash or other funds shall be used as herein provided. Upon dissolution of an authority, all rights of an authority against any person, firm, or corporation shall accrue to and be enforced by the municipality.

History: *1Sp2003 c 4 s 1*

469.057 PORT CONTROL BY OTHERS; PETITION; INTERVENTION.

Subdivision 1. **Regulation.** Unless otherwise provided by law, all laws now or hereafter vesting jurisdiction or control in the Department of Public Service or a successor agency of the state of Minnesota, in the Interstate Commerce Commission or a successor agency, if any, or Department of Defense of the United States, or in similar regulatory bodies shall apply to any transportation, terminal, or other facility owned, operated, leased, or controlled by the port authority with the same force and effect as if the transportation, terminal, or other facility were owned, operated, leased, or controlled by a private corporation.

Subd. 2. **Seaport control limited.** Neither the Department of Public Service nor a successor agency, if any, has jurisdiction over a seaway port authority for the following matters to the extent they are connected with handling interstate commerce:

(1) charges for stevedoring of vessels;

(2) receiving and delivering cargo for vessels;

(3) car and truck unloading and loading cargo for vessels;

(4) watching cargo for vessels;

(5) charges to vessels for use of facilities;

(6) charges against railroad, trucking companies or shippers for use of facilities; and

(7) delivery and warehouse charges for cargo to and from and in warehouses on seaway port authority property.

[For text of subd 3, see M.S.2002]

History: *2003 c 2 art 1 s 43; art 4 s 19*

469.0772 KOOCHICHING COUNTY; PORT AUTHORITY.

Subdivision 1. **Authority to establish.** The governing body of the county of Koochiching may establish a port authority that has the same powers as a port authority established under section 469.049. If the county establishes a port authority, the governing body of the county shall exercise all powers granted to a city by sections 469.048 to 469.068 or other law. Any city in Koochiching County may participate in the activities of the county port authority under terms jointly agreed to by the city and county.

Subd. 2. **Foreign trade zone.** Koochiching County or any city, town, or other political subdivision located in Koochiching County may apply to the board defined in United States Code, title 19, section 81a, for the right to use the powers provided in United States Code, title 19, sections 81a and 81u. If the right is granted the city, town, or other political subdivision may use the powers within or outside of a port district. The county, a city, town, or other political subdivision may apply jointly with any other city, town, or political subdivision located in Koochiching County.

History: *2003 c 127 art 12 s 18; 1Sp2003 c 21 art 10 s 11*

469.110 DEFINITIONS.

[For text of subd 1, see M.S.2002]

Subd. 2. **Department.** "Department" means the Department of Employment and Economic Development.

[For text of subds 3 to 13, see M.S.2002]

History: *1Sp2003 c 4 s 1*

469.111 LOCAL OR AREA AGENCIES; ESTABLISHMENT.

[For text of subds 1 to 3, see M.S.2002]

Subd. 4. **Filing; effect.** When the resolution becomes effective the clerk of the municipality shall file a certified copy thereof with the state agency. In any suit, action, or proceeding involving the validity or enforcement of, or relating to any contract of a local agency, the agency shall be conclusively deemed to have become established and authorized to exercise its powers upon that filing. Proof of the resolution and of that filing may be made in any such suit, action, or proceeding by a certificate of the commissioner of employment and economic development.

[For text of subds 5 and 6, see M.S.2002]

History: *1Sp2003 c 4 s 1*

469.153 DEFINITIONS.

[For text of subds 1 to 4, see M.S.2002]

Subd. 5. **Commissioner.** "Commissioner" means the commissioner of employment and economic development.

Subd. 6. **Department.** "Department" means the Department of Employment and Economic Development.

[For text of subds 7 to 13, see M.S.2002]

History: *1Sp2003 c 4 s 1*

469.154 DUTIES OF DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT.

Subdivision 1. **Generally.** The Department of Employment and Economic Development shall investigate, assist, and advise municipalities, and report to the governor and the legislature concerning the operation of sections 469.152 to 469.165 and the projects undertaken under those sections.

[For text of subds 2 to 4, see M.S.2002]

Subd. 5. **Information to Employment and Economic Development Department.** Each municipality and redevelopment agency upon entering into a revenue agreement, except one pertaining to a project referred to in section 469.153, subdivision 2, paragraph (g) or (j), shall furnish the Employment and Economic Development Department on forms the department prescribes the following information concerning the project: The name of the contracting party, the nature of the enterprise, the location, approximate number of employees, the general terms and nature of the revenue agreement, the amount of bonds or notes issued, and other information the Employment and Economic Development Department deems advisable. The Employment and Economic Development Department shall keep a record of the information which shall be available to the public at times the department prescribes.

[For text of subd 7, see M.S.2002]

History: *1Sp2003 c 4 s 1*

469.166 DEFINITIONS.

[For text of subd 1, see M.S.2002]

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of employment and economic development.

[For text of subds 3 to 12, see M.S.2002]

History: *1Sp2003 c 4 s 1*

469.169 SELECTION OF ENTERPRISE ZONES.

[For text of subds 1 to 15, see M.S.2002]

Subd. 16. **Additional border city allocations.** (a) In addition to tax reductions authorized in subdivisions 7 to 15, the commissioner shall allocate $750,000 for tax reductions to border city enterprise zones in cities located on the western border of the state. The commissioner shall make allocations to zones in cities on the western border on a per capita basis. Allocations made under this subdivision may be used for tax reductions as provided in section 469.171, or for other offsets of taxes imposed on or remitted by businesses located in the enterprise zone, but only if the municipality determines that the granting of the tax reduction or offset is necessary in order to retain a business within or attract a business to the zone. Any portion of the allocation provided in this paragraph may alternatively be used for tax reductions under section 469.1732 or 469.1734.

(b) The commissioner shall allocate $750,000 for tax reductions under section 469.1732 or 469.1734 to cities with border city enterprise zones located on the western border of the state. The commissioner shall allocate this amount among the cities on a per capita basis. Any portion of the allocation provided in this paragraph may alternatively be used for tax reductions as provided in section 469.171.

History: *1Sp2003 c 21 art 10 s 1*

469.1731 BORDER CITY DEVELOPMENT ZONES.

[For text of subds 1 and 2, see M.S.2002]

Subd. 3. **Filing.** The city must file a copy of the resolution and development plan with the commissioner of employment and economic development. The designation takes effect 30 days after the filing.

History: *2003 c 127 art 14 s 12; 1Sp2003 c 4 s 1*

469.1733 DISQUALIFIED TAXPAYERS.

[For text of subds 1 and 2, see M.S.2002]

Subd. 3. **Relocation from outside county.** (a) If a business relocates more than 25 full-time equivalent jobs from a location in Minnesota outside of the county in which the zone is located, the business must notify the commissioner of employment and economic development and the city and county governments from which the jobs are being relocated. A business may satisfy the notification requirement by notifying the commissioner of employment and economic development, the city, and county of its intent to transfer jobs to a zone before actually doing so. The business is not eligible for the exemptions and credits available in the border city development zone, if the governing body of the city or county from which the jobs are being relocated adopts a resolution objecting to the relocation within 60 days after its receipt of the notice.

(b) The business becomes eligible for the exemptions and credits available in the zone when each city and county that objected to the relocation rescinds its objection by resolution.

(c) A city or county that objects to the relocation of jobs must file a copy of the resolution with the commissioner of employment and economic development and the

city that created the border city development zone into which the jobs were or intend to be transferred.

History: *1Sp2003 c 4 s 1*

469.174 DEFINITIONS.

[For text of subds 1 and 2, see M.S.2002]

Subd. 3. **Bonds.** (a) "Bonds" means any bonds or other obligations issued:

(1) by an authority under section 469.178; or

(2) in aid of a project under any other law, except revenue bonds issued pursuant to sections 469.152 to 469.165, prior to August 1, 1979.

(b) Bonds or other obligations include:

(1) refunding bonds;

(2) notes;

(3) interim certificates;

(4) debentures; and

(5) interfund loans or advances qualifying under section 469.178, subdivision 7.

[For text of subds 4 and 5, see M.S.2002]

Subd. 6. **Municipality.** "Municipality" means the city, however organized, in which the district is located, with the following exceptions:

(1) for a project undertaken pursuant to sections 469.152 to 469.165, "municipality" has the meaning given in sections 469.152 to 469.165; and

(2) for a project undertaken pursuant to sections 469.142 to 469.151, or a county or multicounty project undertaken pursuant to sections 469.004 to 469.008 or special law, "municipality" means the county in which the district is located.

[For text of subds 7 to 9, see M.S.2002]

Subd. 10. **Redevelopment district.** (a) "Redevelopment district" means a type of tax increment financing district consisting of a project, or portions of a project, within which the authority finds by resolution that one or more of the following conditions, reasonably distributed throughout the district, exists:

(1) parcels consisting of 70 percent of the area of the district are occupied by buildings, streets, utilities, paved or gravel parking lots, or other similar structures and more than 50 percent of the buildings, not including outbuildings, are structurally substandard to a degree requiring substantial renovation or clearance;

(2) the property consists of vacant, unused, underused, inappropriately used, or infrequently used railyards, rail storage facilities, or excessive or vacated railroad rights-of-way;

(3) tank facilities, or property whose immediately previous use was for tank facilities, as defined in section 115C.02, subdivision 15, if the tank facilities:

(i) have or had a capacity of more than 1,000,000 gallons;

(ii) are located adjacent to rail facilities; and

(iii) have been removed or are unused, underused, inappropriately used, or infrequently used; or

(4) a qualifying disaster area, as defined in subdivision 10b.

(b) For purposes of this subdivision, "structurally substandard" shall mean containing defects in structural elements or a combination of deficiencies in essential utilities and facilities, light and ventilation, fire protection including adequate egress, layout and condition of interior partitions, or similar factors, which defects or deficiencies are of sufficient total significance to justify substantial renovation or clearance.

(c) A building is not structurally substandard if it is in compliance with the building code applicable to new buildings or could be modified to satisfy the building code at a cost of less than 15 percent of the cost of constructing a new structure of the

same square footage and type on the site. The municipality may find that a building is not disqualified as structurally substandard under the preceding sentence on the basis of reasonably available evidence, such as the size, type, and age of the building, the average cost of plumbing, electrical, or structural repairs, or other similar reliable evidence. The municipality may not make such a determination without an interior inspection of the property, but need not have an independent, expert appraisal prepared of the cost of repair and rehabilitation of the building. An interior inspection of the property is not required, if the municipality finds that (1) the municipality or authority is unable to gain access to the property after using its best efforts to obtain permission from the party that owns or controls the property; and (2) the evidence otherwise supports a reasonable conclusion that the building is structurally substandard. Items of evidence that support such a conclusion include recent fire or police inspections, on-site property tax appraisals or housing inspections, exterior evidence of deterioration, or other similar reliable evidence. Written documentation of the findings and reasons why an interior inspection was not conducted must be made and retained under section 469.175, subdivision 3, clause (1). Failure of a building to be disqualified under the provisions of this paragraph is a necessary, but not a sufficient, condition to determining that the building is substandard.

(d) A parcel is deemed to be occupied by a structurally substandard building for purposes of the finding under paragraph (a) if all of the following conditions are met:

(1) the parcel was occupied by a substandard building within three years of the filing of the request for certification of the parcel as part of the district with the county auditor;

(2) the substandard building was demolished or removed by the authority or the demolition or removal was financed by the authority or was done by a developer under a development agreement with the authority;

(3) the authority found by resolution before the demolition or removal that the parcel was occupied by a structurally substandard building and that after demolition and clearance the authority intended to include the parcel within a district; and

(4) upon filing the request for certification of the tax capacity of the parcel as part of a district, the authority notifies the county auditor that the original tax capacity of the parcel must be adjusted as provided by section 469.177, subdivision 1, paragraph (f).

(e) For purposes of this subdivision, a parcel is not occupied by buildings, streets, utilities, paved or gravel parking lots, or other similar structures unless 15 percent of the area of the parcel contains buildings, streets, utilities, paved or gravel parking lots, or other similar structures.

(f) For districts consisting of two or more noncontiguous areas, each area must qualify as a redevelopment district under paragraph (a) to be included in the district, and the entire area of the district must satisfy paragraph (a).

[For text of subd 10a, see M.S.2002]

Subd. 10b. **Qualified disaster area.** A "qualified disaster area" is an area that meets the following requirements:

(1) parcels consisting of 70 percent of the area of the district were occupied by buildings, streets, utilities, paved or gravel parking lots, or other similar structures immediately before the disaster or emergency;

(2) the area of the district was subject to a disaster or emergency, as defined in section 273.123, subdivision 1, within the 18-month period ending on the day the request for certification of the district is made; and

(3) 50 percent or more of the buildings in the area have suffered substantial damage as a result of the disaster or emergency.

[For text of subds 11 to 24, see M.S.2002]

Subd. 25. **Increment.** "Increment," "tax increment," "tax increment revenues," "revenues derived from tax increment," and other similar terms for a district include:

(1) taxes paid by the captured net tax capacity, but excluding any excess taxes, as computed under section 469.177;

(2) the proceeds from the sale or lease of property, tangible or intangible, purchased by the authority with tax increments;

(3) principal and interest received on loans or other advances made by the authority with tax increments; and

(4) interest or other investment earnings on or from tax increments.

[For text of subds 26 to 28, see M.S.2002]

Subd. 29. **Qualified housing district.** "Qualified housing district" means:

(1) a housing district for a residential rental project or projects in which the only properties receiving assistance from revenues derived from tax increments from the district meet the rent restriction requirements and the low-income occupancy test for a qualified low-income housing project under section 42(g) of the Internal Revenue Code of 1986, as amended through December 31, 2002, regardless of whether the project actually receives a low-income housing credit; or

(2) a housing district for a single-family homeownership project or projects, if 95 percent or more of the homes receiving assistance from tax increments from the district are purchased by qualified purchasers. A qualified purchaser means the first purchaser of a home after the tax increment assistance is provided whose income is at or below 85 percent of the median gross income for a family of the same size as the purchaser. Median gross income is the greater of (i) area median gross income, or (ii) the statewide median gross income, as determined by the secretary of Housing and Urban Development.

History: *2003 c 127 art 10 s 1-5; 1Sp2003 c 21 art 10 s 2-4*

469.175 ESTABLISHING, CHANGING TIF PLAN, ANNUAL ACCOUNTS.

Subdivision 1. **Tax increment financing plan.** A tax increment financing plan shall contain:

(1) a statement of objectives of an authority for the improvement of a project;

(2) a statement as to the development program for the project, including the property within the project, if any, that the authority intends to acquire;

(3) a list of any development activities that the plan proposes to take place within the project, for which contracts have been entered into at the time of the preparation of the plan, including the names of the parties to the contract, the activity governed by the contract, the cost stated in the contract, and the expected date of completion of that activity;

(4) identification or description of the type of any other specific development reasonably expected to take place within the project, and the date when the development is likely to occur;

(5) estimates of the following:

(i) cost of the project, including administrative expenses, except that if part of the cost of the project is paid or financed with increment from the tax increment financing district, the tax increment financing plan for the district must contain an estimate of the amount of the cost of the project, including administrative expenses, that will be paid or financed with tax increments from the district;

(ii) amount of bonded indebtedness to be incurred;

(iii) sources of revenue to finance or otherwise pay public costs;

(iv) the most recent net tax capacity of taxable real property within the tax increment financing district and within any subdistrict;

(v) the estimated captured net tax capacity of the tax increment financing district at completion; and

(vi) the duration of the tax increment financing district's and any subdistrict's existence;

(6) statements of the authority's alternate estimates of the impact of tax increment financing on the net tax capacities of all taxing jurisdictions in which the tax increment financing district is located in whole or in part. For purposes of one statement, the authority shall assume that the estimated captured net tax capacity would be available to the taxing jurisdictions without creation of the district, and for purposes of the second statement, the authority shall assume that none of the estimated captured net tax capacity would be available to the taxing jurisdictions without creation of the district or subdistrict;

(7) identification and description of studies and analyses used to make the determination set forth in subdivision 3, clause (2); and

(8) identification of all parcels to be included in the district or any subdistrict.

[For text of subds 1a to 2a, see M.S.2002]

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

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

(1) that the proposed tax increment financing district is a redevelopment district, a renewal or renovation district, a housing district, a soils condition district, or an economic development district; if the proposed district is a redevelopment district or a renewal or renovation district, the reasons and supporting facts for the determination that the district meets the criteria of section 469.174, subdivision 10, paragraph (a), clauses (1) and (2), or subdivision 10a, must be documented in writing and retained and made available to the public by the authority until the district has been terminated;

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

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

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

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

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

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

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

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

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

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

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

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

Subd. 4. **Modification of plan.** (a) A tax increment financing plan may be modified by an authority.

(b) The authority may make the following modifications only upon the notice and after the discussion, public hearing, and findings required for approval of the original plan:

(1) any reduction or enlargement of geographic area of the project or tax increment financing district that does not meet the requirements of paragraph (e);

(2) increase in amount of bonded indebtedness to be incurred;

(3) a determination to capitalize interest on the debt if that determination was not a part of the original plan, or to increase or decrease the amount of interest on the debt to be capitalized;

(4) increase in the portion of the captured net tax capacity to be retained by the authority;

(5) increase in the estimate of the cost of the project, including administrative expenses, that will be paid or financed with tax increment from the district; or

(6) designation of additional property to be acquired by the authority.

(c) If an authority changes the type of district to another type of district, this change is not a modification but requires the authority to follow the procedure set forth in sections 469.174 to 469.179 for adoption of a new plan, including certification of the net tax capacity of the district by the county auditor.

(d) If a redevelopment district or a renewal and renovation district is enlarged, the reasons and supporting facts for the determination that the addition to the district meets the criteria of section 469.174, subdivision 10, paragraph (a), clauses (1) and (2), or subdivision 10a, must be documented.

(e) The requirements of paragraph (b) do not apply if (1) the only modification is elimination of parcels from the project or district and (2)(A) the current net tax capacity of the parcels eliminated from the district equals or exceeds the net tax capacity of those parcels in the district's original net tax capacity or (B) the authority agrees that, notwithstanding section 469.177, subdivision 1, the original net tax capacity

will be reduced by no more than the current net tax capacity of the parcels eliminated from the district. The authority must notify the county auditor of any modification that reduces or enlarges the geographic area of a district or a project area.

(f) The geographic area of a tax increment financing district may be reduced, but shall not be enlarged after five years following the date of certification of the original net tax capacity by the county auditor or after August 1, 1984, for tax increment financing districts authorized prior to August 1, 1979.

[For text of subds 4a and 5, see M.S.2002]

Subd. 6. **Annual financial reporting.** (a) The state auditor shall develop a uniform system of accounting and financial reporting for tax increment financing districts. The system of accounting and financial reporting shall, as nearly as possible:

(1) provide for full disclosure of the sources and uses of public funds in the district;

(2) permit comparison and reconciliation with the affected local government's accounts and financial reports;

(3) permit auditing of the funds expended on behalf of a district, including a single district that is part of a multidistrict project or that is funded in part or whole through the use of a development account funded with tax increments from other districts or with other public money;

(4) be consistent with generally accepted accounting principles.

(b) The authority must annually submit to the state auditor a financial report in compliance with paragraph (a). Copies of the report must also be provided to the county auditor and to the governing body of the municipality, if the authority is not the municipality. To the extent necessary to permit compliance with the requirement of financial reporting, the county and any other appropriate local government unit or private entity must provide the necessary records or information to the authority or the state auditor as provided by the system of accounting and financial reporting developed pursuant to paragraph (a). The authority must submit the annual report for a year on or before August 1 of the next year.

(c) The annual financial report must also include the following items:

(1) the original net tax capacity of the district and any subdistrict under section 469.177, subdivision 1;

(2) the net tax capacity for the reporting period of the district and any subdistrict;

(3) the captured net tax capacity of the district;

(4) any fiscal disparity deduction from the captured net tax capacity under section 469.177, subdivision 3;

(5) the captured net tax capacity retained for tax increment financing under section 469.177, subdivision 2, paragraph (a), clause (1);

(6) any captured net tax capacity distributed among affected taxing districts under section 469.177, subdivision 2, paragraph (a), clause (2);

(7) the type of district;

(8) the date the municipality approved the tax increment financing plan and the date of approval of any modification of the tax increment financing plan, the approval of which requires notice, discussion, a public hearing, and findings under subdivision 4, paragraph (a);

(9) the date the authority first requested certification of the original net tax capacity of the district and the date of the request for certification regarding any parcel added to the district;

(10) the date the county auditor first certified the original net tax capacity of the district and the date of certification of the original net tax capacity of any parcel added to the district;

(11) the month and year in which the authority has received or anticipates it will receive the first increment from the district;

(12) the date the district must be decertified;

(13) for the reporting period and prior years of the district, the actual amount received from, at least, the following categories:

(i) tax increments paid by the captured net tax capacity retained for tax increment financing under section 469.177, subdivision 2, paragraph (a), clause (1), but excluding any excess taxes;

(ii) tax increments that are interest or other investment earnings on or from tax increments;

(iii) tax increments that are proceeds from the sale or lease of property, tangible or intangible, purchased by the authority with tax increments;

(iv) tax increments that are repayments of loans or other advances made by the authority with tax increments;

(v) bond or loan proceeds;

(vi) special assessments;

(vii) grants; and

(viii) transfers from funds not exclusively associated with the district;

(14) for the reporting period and for the prior years of the district, the actual amount expended for, at least, the following categories:

(i) acquisition of land and buildings through condemnation or purchase;

(ii) site improvements or preparation costs;

(iii) installation of public utilities, parking facilities, streets, roads, sidewalks, or other similar public improvements;

(iv) administrative costs, including the allocated cost of the authority;

(v) public park facilities, facilities for social, recreational, or conference purposes, or other similar public improvements; and

(vi) transfers to funds not exclusively associated with the district;

(15) for properties sold to developers, the total cost of the property to the authority and the price paid by the developer;

(16) the amount of any payments and the value of any in-kind benefits, such as physical improvements and the use of building space, that are paid or financed with tax increments and are provided to another governmental unit other than the municipality during the reporting period;

(17) the amount of any payments for activities and improvements located outside of the district that are paid for or financed with tax increments;

(18) the amount of payments of principal and interest that are made during the reporting period on any nondefeased:

(i) general obligation tax increment financing bonds;

(ii) other tax increment financing bonds; and

(iii) notes and pay-as-you-go contracts;

(19) the principal amount, at the end of the reporting period, of any nondefeased:

(i) general obligation tax increment financing bonds;

(ii) other tax increment financing bonds; and

(iii) notes and pay-as-you-go contracts;

(20) the amount of principal and interest payments that are due for the current calendar year on any nondefeased:

(i) general obligation tax increment financing bonds;

(ii) other tax increment financing bonds; and

(iii) notes and pay-as-you-go contracts;

(21) if the fiscal disparities contribution under chapter 276A or 473F for the district is computed under section 469.177, subdivision 3, paragraph (a), the amount of increased property taxes imposed on other properties in the municipality that approved the tax increment financing plan as a result of the fiscal disparities contribution;

(22) whether the tax increment financing plan or other governing document permits increment revenues to be expended:

(i) to pay bonds, the proceeds of which were or may be expended on activities outside of the district;

(ii) for deposit into a common bond fund from which money may be expended on activities located outside of the district; or

(iii) to otherwise finance activities located outside of the tax increment financing district;

(23) the estimate, if any, contained in the tax increment financing plan of the amount of the cost of the project, including administrative expenses, that will be paid or financed with tax increment; and

(24) any additional information the state auditor may require.

(d) The commissioner of revenue shall prescribe the method of calculating the increased property taxes under paragraph (c), clause (21), and the form of the statement disclosing this information on the annual statement under subdivision 5.

(e) The reporting requirements imposed by this subdivision apply to districts certified before, on, and after August 1, 1979.

[For text of subd 6b, see M.S.2002]

Subd. 7. **Creation of hazardous substance subdistrict; response actions.** (a) An authority which is creating or has created a tax increment financing district may establish within the district a hazardous substance subdistrict upon the notice and after the discussion, public hearing, and findings required for approval of or modification to the original plan. The geographic area of the subdistrict is made up of any parcels in the district designated for inclusion by the municipality or authority that are designated hazardous substance sites, and any additional parcels in the district designated for inclusion that are contiguous to the hazardous substance sites, including parcels that are contiguous to the site except for the interposition of a right-of-way. Before or at the time of approval of the tax increment financing plan or plan modification providing for the creation of the hazardous substance subdistrict, the authority must make the findings under paragraphs (b) to (d), and set forth in writing the reasons and supporting facts for each.

(b) Development or redevelopment of the site, in the opinion of the authority, would not reasonably be expected to occur solely through private investment and tax increment otherwise available, and therefore the hazardous substance district is deemed necessary.

(c) Other parcels that are not designated hazardous substance sites are expected to be developed together with a designated hazardous substance site.

(d) The subdistrict is not larger than, and the period of time during which increments are elected to be received is not longer than, that which is necessary in the opinion of the authority to provide for the additional costs due to the designated hazardous substance site.

(e) Upon request by an authority that has incurred expenses for removal or remedial actions to implement a development response action plan, the attorney general may:

(1) bring a civil action on behalf of the authority to recover the expenses, including administrative costs and litigation expenses, under section 115B.04 or other law; or

(2) assist the authority in bringing an action as described in clause (1), by providing legal and technical advice, intervening in the action, or other appropriate assistance.

The decision to participate in any action to recover expenses is at the discretion of the attorney general.

(f) If the attorney general brings an action as provided in paragraph (e), clause (1), the authority shall certify its reasonable and necessary expenses incurred to implement

the development response action plan and shall cooperate with the attorney general as required to effectively pursue the action. The certification by the authority is prima facie evidence that the expenses are reasonable and necessary. The attorney general may deduct litigation expenses incurred by the attorney general from any amounts recovered in an action brought under paragraph (e), clause (1). The authority shall reimburse the attorney general for litigation expenses not recovered in an action under paragraph (e), clause (1), but only from the additional tax increment required to be used as described in section 469.176, subdivision 4e. The authority must reimburse the attorney general for litigation expenses incurred to assist in bringing an action under paragraph (e), clause (2), but only from amounts recovered by the authority in an action or, if the amounts are insufficient, from the additional tax increment required to be used as described in section 469.176, subdivision 4e. All money recovered or paid to the attorney general for litigation expenses under this paragraph shall be paid to the general fund of the state for deposit to the account of the attorney general. For the purposes of this section, "litigation expenses" means attorney fees and costs of discovery and other preparation for litigation.

(g) The authority shall reimburse the pollution control agency for its administrative expenses incurred to review and approve a development action response plan. The authority must reimburse the Pollution Control Agency for expenses incurred for any services rendered to the attorney general to support the attorney general in actions brought or assistance provided under paragraph (e), but only from amounts recovered by the authority in an action brought under paragraph (e) or from the additional tax increment required to be used as described in section 469.176, subdivision 4e. All money paid to the pollution control agency under this paragraph shall be deposited in the remediation fund.

(h) Actions taken by an authority consistent with a development response action plan are deemed to be authorized response actions for the purpose of section 115B.17, subdivision 12. An authority that takes actions consistent with a development response action plan qualifies for the defenses available under sections 115B.04, subdivision 11, and 115B.05, subdivision 9.

(i) All money recovered by an authority in an action brought under paragraph (e) in excess of the amounts paid to the attorney general and the Pollution Control Agency must be treated as excess increments and be distributed as provided in section 469.176, subdivision 2, clause (4), to the extent the removal and remedial actions were initially financed with increment revenues.

[For text of subd 8, see M.S.2002]

History: *2003 c 127 art 10 s 6-9; 2003 c 128 art 2 s 45*

469.176 LIMITATIONS.

[For text of subds 1 to 1b, see M.S.2002]

Subd. 1c. **Duration limits; pre-1979 districts.** (a) For tax increment financing districts created prior to August 1, 1979, no tax increment shall be paid to the authority after April 1, 2001, or the term of a nondefeased bond or obligation outstanding on April 1, 1990, secured by increments from the district or project area, whichever time is greater, provided that in no case will a tax increment be paid to an authority after August 1, 2009, from such a district. If a district's termination date is extended beyond April 1, 2001, because bonds were outstanding on April 1, 1990, with maturities extending beyond April 1, 2001, the following restrictions apply. No increment collected from the district may be expended after April 1, 2001, except to pay or repay:

(1) bonds issued before April 1, 1990;

(2) bonds issued to refund the principal of the outstanding bonds and pay associated issuance costs;

(3) administrative expenses of the district required to be paid under section 469.176, subdivision 4h, paragraph (a);

(4) transfers of increment permitted under section 469.1763, subdivision 6; and

(5) any advance or payment made by the municipality or the authority after June 1, 2002, to pay any bonds listed in clause (1) or (2).

(b) Each year, any increments from a district subject to this subdivision must be first applied to pay obligations listed under paragraph (a), clauses (1) and (2), and administrative expenses under paragraph (a), clause (3). Any remaining increments may be used for transfers of increments permitted under section 469.1763, subdivision 6, and to make payments under paragraph (a), clause (5).

(c) When sufficient money has been received to pay in full or defease obligations under paragraph (a), clauses (1), (2), and (5), the tax increment project or district must be decertified.

[For text of subds 1d to 1g, see M.S.2002]

Subd. 2. **Excess increments.** (a) The authority shall annually determine the amount of excess increments for a district, if any. This determination must be based on the tax increment financing plan in effect on December 31 of the year and the increments and other revenues received as of December 31 of the year.

(b) For purposes of this subdivision, "excess increments" equals the excess of:

(1) total increments collected from the district since its certification, reduced by any excess increments paid under paragraph (c), clause (4), for a prior year, over

(2) the total costs authorized by the tax increment financing plan to be paid with increments from the district, reduced, but not below zero, by the sum of:

(i) the amounts of those authorized costs that have been paid from sources other than tax increments from the district;

(ii) revenues, other than tax increments from the district, that are dedicated for or otherwise required to be used to pay those authorized costs and that the authority has received and that are not included in item (i); and

(iii) the amount of principal and interest obligations due on outstanding bonds after December 31 of the year and not prepaid under paragraph (c) in a prior year.

(c) The authority shall use excess increment only to do one or more of the following:

(1) prepay any outstanding bonds;

(2) discharge the pledge of tax increment for any outstanding bonds;

(3) pay into an escrow account dedicated to the payment of any outstanding bonds; or

(4) return the excess amount to the county auditor who shall distribute the excess amount to the city or town, county, and school district in which the tax increment financing district is located in direct proportion to their respective local tax rates.

(d) The county auditor must report to the commissioner of education the amount of any excess tax increment distributed to a school district within 30 days of the distribution.

Subd. 3. **Limitation on administrative expenses.** (a) For districts for which certification was requested before August 1, 1979, or after June 30, 1982 and before August 1, 2001, no tax increment shall be used to pay any administrative expenses for a project which exceed ten percent of the total estimated tax increment expenditures authorized by the tax increment financing plan or the total tax increment expenditures for the project, whichever is less.

(b) For districts for which certification was requested after July 31, 1979, and before July 1, 1982, no tax increment shall be used to pay administrative expenses, as defined in Minnesota Statutes 1980, section 273.73, for a district which exceeds five percent of the total tax increment expenditures authorized by the tax increment financing plan or the total estimated tax increment expenditures for the district, whichever is less.

(c) For districts for which certification was requested after July 31, 2001, no tax increment may be used to pay any administrative expenses for a project which exceed ten percent of total estimated tax increment expenditures authorized by the tax increment financing plan or the total tax increments, as defined in section 469.174, subdivision 25, clause (1), from the district, whichever is less.

[For text of subds 4 to 6, see M.S.2002]

Subd. 7. **Parcels not includable in districts.** (a) The authority may request inclusion in a tax increment financing district and the county auditor may certify the original tax capacity of a parcel or a part of a parcel that qualified under the provisions of section 273.111 or 273.112 or chapter 473H for taxes payable in any of the five calendar years before the filing of the request for certification only for:

(1) a district in which 85 percent or more of the planned buildings and facilities (determined on the basis of square footage) are a qualified manufacturing facility or a qualified distribution facility or a combination of both; or

(2) a qualified housing district.

(b)(1) A distribution facility means buildings and other improvements to real property that are used to conduct activities in at least each of the following categories:

(i) to store or warehouse tangible personal property;

(ii) to take orders for shipment, mailing, or delivery;

(iii) to prepare personal property for shipment, mailing, or delivery; and

(iv) to ship, mail, or deliver property.

(2) A manufacturing facility includes space used for manufacturing or producing tangible personal property, including processing resulting in the change in condition of the property, and space necessary for and related to the manufacturing activities.

(3) To be a qualified facility, the owner or operator of a manufacturing or distribution facility must agree to pay and pay 90 percent or more of the employees of the facility at a rate equal to or greater than 160 percent of the federal minimum wage for individuals over the age of 20.

History: *2003 c 127 art 10 s 10-13; 2003 c 130 s 12*

469.1763 RESTRICTIONS ON POOLING; FIVE-YEAR LIMIT.

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

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

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

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

Subd. 2. **Expenditures outside district.** (a) For each tax increment financing district, an amount equal to at least 75 percent of the total revenue derived from tax increments paid by properties in the district must be expended on activities in the district or to pay bonds, to the extent that the proceeds of the bonds were used to finance activities in the district or to pay, or secure payment of, debt service on credit enhanced bonds. For districts, other than redevelopment districts for which the request for certification was made after June 30, 1995, the in-district percentage for purposes of the preceding sentence is 80 percent. Not more than 25 percent of the total revenue derived from tax increments paid by properties in the district may be expended, through a development fund or otherwise, on activities outside of the district but within

the defined geographic area of the project except to pay, or secure payment of, debt service on credit enhanced bonds. For districts, other than redevelopment districts for which the request for certification was made after June 30, 1995, the pooling percentage for purposes of the preceding sentence is 20 percent. The revenue derived from tax increments for the district that are expended on costs under section 469.176, subdivision 4h, paragraph (b), may be deducted first before calculating the percentages that must be expended within and without the district.

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

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

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

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

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

(3) be used to:

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

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

(iii) make public improvements directly related to the housing.

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

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

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

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

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

(5) expenditures are made for housing purposes as permitted by subdivision 2, paragraph (b).

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

Subd. 4. **Use of revenues for decertification.** (a) In each year beginning with the sixth year following certification of the district, if the applicable in-district percent of

the revenues derived from tax increments paid by properties in the district exceeds the amount of expenditures that have been made for costs permitted under subdivision 3, an amount equal to the difference between the in-district percent of the revenues derived from tax increments paid by properties in the district and the amount of expenditures that have been made for costs permitted under subdivision 3 must be used and only used to pay or defease the following or be set aside to pay the following:

(1) outstanding bonds, as defined in subdivision 3, paragraphs (a), clause (2), and (b);

(2) contracts, as defined in subdivision 3, paragraph (a), clauses (3) and (4); or

(3) credit enhanced bonds to which the revenues derived from tax increments are pledged, but only to the extent that revenues of the district for which the credit enhanced bonds were issued are insufficient to pay the bonds and to the extent that the increments from the applicable pooling percent share for the district are insufficient.

(b) When the outstanding bonds have been defeased and when sufficient money has been set aside to pay contractual obligations as defined in subdivision 3, paragraph (a), clauses (3) and (4), the district must be decertified and the pledge of tax increment discharged.

[For text of subd 5, see M.S.2002]

Subd. 6. **Pooling permitted for deficits.** (a) This subdivision applies only to districts for which the request for certification was made before August 1, 2001, and without regard to whether the request for certification was made prior to August 1, 1979.

(b) The municipality for the district may transfer available increments from another tax increment financing district located in the municipality, if the transfer is necessary to eliminate a deficit in the district to which the increments are transferred. A deficit in the district for purposes of this subdivision means the lesser of the following two amounts:

(1)(i) the amount due during the calendar year to pay preexisting obligations of the district; minus

(ii) the total increments collected or to be collected from properties located within the district that are available for the calendar year including amounts collected in prior years that are currently available; plus

(iii) total increments from properties located in other districts in the municipality including amounts collected in prior years that are available to be used to meet the district's obligations under this section, excluding this subdivision, or other provisions of law (but excluding a special tax under section 469.1791 and the grant program under Laws 1997, chapter 231, article 1, section 19, or Laws 2001, First Special Session chapter 5); or

(2) the reduction in increments collected from properties located in the district for the calendar year as a result of the changes in class rates in Laws 1997, chapter 231, article 1; Laws 1998, chapter 389, article 2; and Laws 1999, chapter 243, and Laws 2001, First Special Session chapter 5, or the elimination of the general education tax levy under Laws 2001, First Special Session chapter 5.

(c) A preexisting obligation means:

(1) bonds issued and sold before August 1, 2001, or bonds issued pursuant to a binding contract requiring the issuance of bonds entered into before July 1, 2001, and bonds issued to refund such bonds or to reimburse expenditures made in conjunction with a signed contractual agreement entered into before August 1, 2001, to the extent that the bonds are secured by a pledge of increments from the tax increment financing district; and

(2) binding contracts entered into before August 1, 2001, to the extent that the contracts require payments secured by a pledge of increments from the tax increment financing district.

(d) The municipality may require a development authority, other than a seaway port authority, to transfer available increments including amounts collected in prior

years that are currently available for any of its tax increment financing districts in the municipality to make up an insufficiency in another district in the municipality, regardless of whether the district was established by the development authority or another development authority. This authority applies notwithstanding any law to the contrary, but applies only to a development authority that:

(1) was established by the municipality; or

(2) the governing body of which is appointed, in whole or part, by the municipality or an officer of the municipality or which consists, in whole or part, of members of the governing body of the municipality. The municipality may use this authority only after it has first used all available increments of the receiving development authority to eliminate the insufficiency and exercised any permitted action under section 469.1792, subdivision 3, for preexisting districts of the receiving development authority to eliminate the insufficiency.

(e) The authority under this subdivision to spend tax increments outside of the area of the district from which the tax increments were collected:

(1) is an exception to the restrictions under section 469.176, subdivision 4i, and the other provisions of this section, and the percentage restrictions under subdivision 2 must be calculated after deducting increments spent under this subdivision from the total increments for the district; and

(2) applies notwithstanding the provisions of the Tax Increment Financing Act in effect for districts for which the request for certification was made before June 30, 1982, or any other law to the contrary.

(f) If a preexisting obligation requires the development authority to pay an amount that is limited to the increment from the district or a specific development within the district and if the obligation requires paying a higher amount to the extent that increments are available, the municipality may determine that the amount due under the preexisting obligation equals the higher amount and may authorize the transfer of increments under this subdivision to pay up to the higher amount. The existence of a guarantee of obligations by the individual or entity that would receive the payment under this paragraph is disregarded in the determination of eligibility to pool under this subdivision. The authority to transfer increments under this paragraph may only be used to the extent that the payment of all other preexisting obligations in the municipality due during the calendar year have been satisfied.

History: *2003 c 127 art 10 s 14-16; 1Sp2003 c 21 art 10 s 5, 6*

469.177 COMPUTATION OF TAX INCREMENT.

Subdivision 1. **Original net tax capacity.** (a) Upon or after adoption of a tax increment financing plan, the auditor of any county in which the district is situated shall, upon request of the authority, certify the original net tax capacity of the tax increment financing district and that portion of the district overlying any subdistrict as described in the tax increment financing plan and shall certify in each year thereafter the amount by which the original net tax capacity has increased or decreased as a result of a change in tax exempt status of property within the district and any subdistrict, reduction or enlargement of the district or changes pursuant to subdivision 4.

(b) If the classification under section 273.13 of property located in a district changes to a classification that has a different assessment ratio, the original net tax capacity of that property must be redetermined at the time when its use is changed as if the property had originally been classified in the same class in which it is classified after its use is changed.

(c) The amount to be added to the original net tax capacity of the district as a result of previously tax exempt real property within the district becoming taxable equals the net tax capacity of the real property as most recently assessed pursuant to section 273.18 or, if that assessment was made more than one year prior to the date of title transfer rendering the property taxable, the net tax capacity assessed by the assessor at the time of the transfer. If improvements are made to tax exempt property after certification of the district and before the parcel becomes taxable, the assessor shall, at

the request of the authority, separately assess the estimated market value of the improvements. If the property becomes taxable, the county auditor shall add to original net tax capacity, the net tax capacity of the parcel, excluding the separately assessed improvements. If substantial taxable improvements were made to a parcel after certification of the district and if the property later becomes tax exempt, in whole or part, as a result of the authority acquiring the property through foreclosure or exercise of remedies under a lease or other revenue agreement or as a result of tax forfeiture, the amount to be added to the original net tax capacity of the district as a result of the property again becoming taxable is the amount of the parcel's value that was included in original net tax capacity when the parcel was first certified. The amount to be added to the original net tax capacity of the district as a result of enlargements equals the net tax capacity of the added real property as most recently certified by the commissioner of revenue as of the date of modification of the tax increment financing plan pursuant to section 469.175, subdivision 4.

(d) If the net tax capacity of a property increases because the property no longer qualifies under the Minnesota Agricultural Property Tax Law, section 273.111; the Minnesota Open Space Property Tax Law, section 273.112; or the Metropolitan Agricultural Preserves Act, chapter 473H, or because platted, unimproved property is improved or three years pass after approval of the plat under section 273.11, subdivision 1, the increase in net tax capacity must be added to the original net tax capacity.

(e) The amount to be subtracted from the original net tax capacity of the district as a result of previously taxable real property within the district becoming tax exempt, or a reduction in the geographic area of the district, shall be the amount of original net tax capacity initially attributed to the property becoming tax exempt or being removed from the district. If the net tax capacity of property located within the tax increment financing district is reduced by reason of a court-ordered abatement, stipulation agreement, voluntary abatement made by the assessor or auditor or by order of the commissioner of revenue, the reduction shall be applied to the original net tax capacity of the district when the property upon which the abatement is made has not been improved since the date of certification of the district and to the captured net tax capacity of the district in each year thereafter when the abatement relates to improvements made after the date of certification. The county auditor may specify reasonable form and content of the request for certification of the authority and any modification thereof pursuant to section 469.175, subdivision 4.

(f) If a parcel of property contained a substandard building that was demolished or removed and if the authority elects to treat the parcel as occupied by a substandard building under section 469.174, subdivision 10, paragraph (b), the auditor shall certify the original net tax capacity of the parcel using the greater of (1) the current net tax capacity of the parcel, or (2) the estimated market value of the parcel for the year in which the building was demolished or removed, but applying the class rates for the current year.

(g) For a redevelopment district qualifying under section 469.174, subdivision 10, paragraph (a), clause (4), as a qualified disaster area, the auditor shall certify the value of the land as the original tax capacity for any parcel in the district that contains a building that suffered substantial damage as a result of the disaster or emergency.

[For text of subds 1a to 8, see M.S.2002]

Subd. 9. **Distributions of excess taxes on captured net tax capacity.** (a) If the amount of tax paid on captured net tax capacity exceeds the amount of tax increment, the county auditor shall distribute the excess to the municipality, county, and school district as follows: each governmental unit's share of the excess equals

(1) the total amount of the excess for the tax increment financing district, multiplied by

(2) a fraction, the numerator of which is the current local tax rate of the governmental unit less the governmental unit's local tax rate for the year the original local tax rate for the district was certified (in no case may this amount be less than

zero) and the denominator of which is the sum of the numerators for the municipality, county, and school district.

If the entire increase in the local tax rate is attributable to a taxing district, other than the municipality, county, or school district, then the excess must be distributed to the municipality, county, and school district in proportion to their respective local tax rates.

The school district's tax rate must be divided into the portion of the tax rate attributable (1) to state equalized levies, and (2) unequalized levies. As used in this subdivision, "equalized levies" means the "equalized school levies" which are defined in section 273.1398, subdivision 1, for aids payable in the year following the year in which the excess taxes on captured net tax capacity are due and payable. Unequalized levies mean the rest of the school district's levies. The calculations under clause (2) must determine the amount of excess taxes attributable to each portion of the school district's tax rate. If one of the portions of the change in the school district tax rate is less than zero and the combined change is greater than zero, the combined rate must be used and all the school district's share of excess taxes allocated to that portion of the tax rate.

(b) The amounts distributed shall be deducted in computing the levy limits of the taxing district for the succeeding taxable year. In the case of a school district, only the proportion of the excess taxes attributable to unequalized levies that are subject to a fixed dollar amount levy limit shall be deducted from the levy limit.

(c) In the case of distributions to a school district that are attributable to state equalized levies, the county auditor shall report amounts distributed to the commissioner of education in the same manner as provided for excess increments under section 469.176, subdivision 2, and the distribution shall be deducted from the school district's state aid payments.

[For text of subd 10, see M.S.2002]

Subd. 11. **Deduction for enforcement costs; appropriation.** (a) The county treasurer shall deduct an amount equal to 0.25 percent of any increment distributed to an authority or municipality. The county treasurer shall pay the amount deducted to the commissioner of finance for deposit in the state general fund.

(b) The amounts deducted and paid under paragraph (a) are appropriated to the state auditor for the cost of (1) the financial reporting of tax increment financing information and (2) the cost of examining and auditing of authorities' use of tax increment financing as provided under section 469.1771, subdivision 1. Notwithstanding section 16A.28 or any other law to the contrary, this appropriation does not cancel and remains available until spent.

(c) For taxes payable in 2002 and thereafter, the commissioner of revenue shall increase the percent in paragraph (a) to a percent equal to the product of the percent in paragraph (a) and the amount that the statewide tax increment levy for taxes payable in 2002 would have been without the class rate changes in this act and the elimination of the general education levy in this act divided by the statewide tax increment levy for taxes payable in 2002.

Subd. 12. **Decertification of tax increment financing district.** The county auditor shall decertify a tax increment financing district when the earliest of the following times is reached:

(1) the applicable maximum duration limit under section 469.176, subdivisions 1a to 1g;

(2) the maximum duration limit, if any, provided by the municipality pursuant to section 469.176, subdivision 1;

(3) the time of decertification specified in section 469.1761, subdivision 4, if the commissioner of revenue issues an order of noncompliance and the maximum duration limit for economic development districts has been exceeded;

(4) upon completion of the required actions to allow decertification under section 469.1763, subdivision 4; or

(5) upon the later of receipt by the county auditor of a written request for decertification from the authority that requested certification of the original net tax capacity of the district or its successor or the decertification date specified in the request.

History: *2003 c 112 art 2 s 50; 2003 c 127 art 10 s 17,18; 2003 c 130 s 12; 1Sp2003 c 21 art 10 s 7*

469.1771 VIOLATIONS.

[For text of subds 1 to 3, see M.S.2002]

Subd. 4. **Limitations.** (a) If the increments are pledged to repay bonds that were issued before the lawsuit was filed under this section, the damages under this section may not exceed the greater of (1) ten percent of the expenditures or revenues derived from increment, or (2) the amount of available revenues after paying debt services due on the bonds.

(b) The court may abate all or part of the amount if it determines the unauthorized action or failure to perform the required action was taken in good faith and the payment would work an undue hardship on the authority or municipality.

[For text of subds 4a to 6, see M.S.2002]

Subd. 7. **Limitations on actions.** An action under subdivision 1, paragraph (a), contesting the validity of a determination by an authority under section 469.175, subdivision 3, must be commenced within the later of:

(1) 180 days after the municipality's approval under section 469.175, subdivision 3; or

(2) 90 days after the request for certification of the district is filed with the county auditor under section 469.177, subdivision 1.

History: *2003 c 127 art 10 s 19,20*

469.178 TAX INCREMENT BONDING.

[For text of subds 1 to 6, see M.S.2002]

Subd. 7. **Interfund loans.** The authority or municipality may advance or loan money to finance expenditures under section 469.176, subdivision 4, from its general fund or any other fund under which it has legal authority to do so. The loan or advance must be authorized, by resolution of the governing body, before money is transferred, advanced, or spent, whichever is earliest. The resolution may generally grant to the authority the power to make interfund loans under one or more tax increment financing plans or for one or more districts. The terms and conditions for repayment of the loan must be provided in writing and include, at a minimum, the principal amount, the interest rate, and maximum term. The maximum rate of interest permitted to be charged is limited to the greater of the rates specified under section 270.75 or 549.09 as of the date or advance is made, unless the written agreement states that the maximum interest rate will fluctuate as the interest rates specified under section 270.75 or 549.09 are from time to time adjusted.

History: *2003 c 127 art 10 s 21*

469.1791 TAX INCREMENT FINANCING SPECIAL TAXING DISTRICT.

[For text of subds 1 and 2, see M.S.2002]

Subd. 3. **Preconditions to establish district.** (a) A city may establish a special taxing district within a tax increment financing district under this section only if the conditions under paragraphs (b) and (c) are met or if the city elects to exercise the authority under paragraph (d).

(b) The city has determined that:

(1) total tax increments from the district, including unspent increments from previous years and increments transferred under paragraph (c), will be insufficient to pay the amounts due in a year on preexisting obligations; and

(2) this insufficiency of increments resulted from the reduction in property tax class rates enacted in the 1997 and 1998 legislative sessions.

(c) The city has agreed to transfer any available increments from other tax increment financing districts in the city to pay the preexisting obligations of the district under section 469.1763, subdivision 6. This requirement does not apply to any available increments of a qualified housing district.

(d) If a tax increment financing district does not qualify under paragraphs (b) and (c), the governing body may elect to establish a special taxing district under this section. If the city elects to exercise this authority, increments from the tax increment financing district and the proceeds of the tax imposed under this section may only be used to pay preexisting obligations and reasonable administrative expenses of the authority for the tax increment financing district. The tax increment financing district must be decertified when all preexisting obligations have been paid.

[For text of subds 4 to 11, see M.S.2002]

History: *2003 c 127 art 10 s 22*

469.1792 SPECIAL DEFICIT AUTHORITY.

Subdivision 1. **Scope.** This section applies only to an authority with a preexisting district for which:

(1) the increments from the district were insufficient to pay preexisting obligations as a result of the class rate changes or the elimination of the state-determined general education property tax levy under this act, or both; or

(2)(i) the development authority has a binding contract, entered into before August 1, 2001, with a person requiring the authority to pay to the person an amount that may not exceed the increment from the district or a specific development within the district; and

(ii) the authority is unable to pay the full amount under the contract from the pledged increments or other increments from the district that would have been due if the class rate changes or elimination of the state-determined general education property tax levy or both had not been made under Laws 2001, First Special Session chapter 5.

Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Preexisting district" means a tax increment financing district for which the request for certification was made before August 1, 2001.

(c) "Preexisting obligation" means a bond or binding contract that:

(1)(i) was issued or approved before August 1, 2001, or was issued pursuant to a binding contract entered into before July 1, 2001; or

(ii) was issued to refinance an obligation under item (i), if the refinancing does not increase the present value of the debt service; and

(2) is secured by increments from a preexisting district.

Subd. 3. **Actions authorized.** (a) An authority with a district qualifying under this section may take either or both of the following actions for any or all of its preexisting districts:

(1) the authority may elect that the original local tax rate under section 469.177, subdivision 1a, does not apply to the district; and

(2) the authority may elect the fiscal disparities contribution will be computed under section 469.177, subdivision 3, paragraph (a), regardless of the election that was made for the district or if the district is an economic development district for which the request for certification was made after June 30, 1997.

(b) The authority may take action under this subdivision only after the municipality approves the action, by resolution, after notice and public hearing in the manner provided under section 469.175, subdivision 3. To be effective for taxes payable in the following year, the resolution must be adopted and the county auditor must be notified of the adoption on or before July 1.

History: *2003 c 127 art 10 s 23-25; 2003 c 127 art 5 s 43*

469.1794 DURATION EXTENSION TO OFFSET DEFICITS.

Subdivision 1. **Authority.** Subject to the conditions and limitations imposed by this section, an authority may, by resolution, extend the duration limit under section 469.176, subdivision 1b, 1c, 1e, or 1g, that applies to a preexisting district by up to the maximum number of years permitted under subdivision 5, plus any amount authorized by the commissioner of revenue under subdivision 6.

Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Extended district" means a tax increment financing district whose duration limit is extended under this section.

(c) "Preexisting district" has the meaning given in section 469.1792, subdivision 2.

(d) "Preexisting obligation" has the meaning given in section 469.1792, subdivision 2.

(e) "Qualifying obligation" means:

(1) a preexisting obligation that is:

(i) a general obligation bond of the municipality;

(ii) a general obligation bond of the authority;

(iii) a revenue bond of the authority to which other revenues or money of the authority in addition to tax increments are pledged to pay;

(iv) an interfund loan, including an advance or payment made by the municipality or authority after June 1, 2002, to pay an obligation listed in items (i) to (iii);

(v) an obligation assumed by a developer before January 1, 2001, to repay a general obligation bond issued by a municipality to fund cleanup and development activities, if the developer assumed the obligation more than five years after the issuance of the bonds; or

(2) a bond issued to refinance a preexisting obligation under clause (1).

Subd. 3. **Preconditions.** Before an authority may extend the duration of district under this section, the following conditions must be met with regard to the district:

(1) the original local tax rate under section 469.177, subdivision 1a, does not apply under an election made under section 469.1792, subdivision 3, or under other operation of law;

(2) for a district in the metropolitan area or taconite tax relief area, the fiscal disparities contribution is computed under section 469.177, subdivision 3, paragraph (a);

(3) the municipality has transferred any available increments in other districts to pay qualified obligations of the district or other districts in the municipality under section 469.1763, subdivision 6; and

(4) the authority finds that, taking into account all of the increments that are available to pay qualifying obligations for the district, the increments from the district will be insufficient to pay the amount of qualifying obligations and that the insufficiency is a result of (i) the changes in the class rates and (ii) elimination of the state-determined general education property tax levy under Laws 2001, First Special Session chapter 5.

Subd. 4. **Notice; hearing; and approvals.** The authority may extend the duration of a district under this section only after the municipality has approved the extension after providing public notice and holding a hearing in the manner provided under section 469.175, subdivision 3.

Subd. 5. **Maximum extension.** (a) The maximum extension for a district under this subdivision equals the lesser of:

(1) four years; or

(2) the tax reform percentage for the district, determined under paragraph (b), multiplied by the remaining duration of the district rounded to the nearest whole number. Fractions in excess of one-third are rounded up.

(b) The tax reform percentage for the district, as estimated by the county auditor, equals:

(1)(i) the total taxes paid by the original tax capacity for the district for taxes payable in 2001, minus

(ii) the average of the total taxes paid by the original tax capacity for the district for taxes payable in 2002 and in 2003, divided by

(2) the total taxes paid by the original tax capacity for the district for taxes payable in 2001.

(c) In the resolution approving the extension, the municipality may elect to treat all preexisting obligations as qualified obligations for purposes of this section. If the municipality makes an election under this paragraph, the maximum duration is reduced by one-half of the amount otherwise permitted under paragraph (a).

(d) The remaining duration of a district is the number of calendar years, beginning after December 31, 2001, in which the district may collect increment under its duration limit under section 469.176, subdivision 1b, 1c, 1e, or 1g, or a special law approved before January 1, 2002, as applicable.

(e) For purposes of this subdivision, "taxes" exclude taxes levied against market value, rather than tax capacity, and the state general tax under section 275.025.

Subd. 6. **Commissioner authority.** (a) If the municipality determines that the extension permitted under subdivision 5 will not provide sufficient revenue to pay in full the amount of qualifying obligations, the municipality may apply to the commissioner of revenue for an additional duration extension. The commissioner may authorize an extension of the duration of the district of up to two years after determining that:

(1) the insufficiency of revenues to pay the qualifying obligations, which will be offset by the additional extension of the duration limit, result from (i) the changes in the class rates and (ii) elimination of the state-determined general education property tax levy under Laws 2001, First Special Session chapter 5;

(2) the municipality has or is transferring all available increments from other preexisting districts and after August 1, 2001, has not entered into new obligations or authorized new spending that reduced the amount of those increments that are available for transfer to pay qualifying obligations; and

(3) increases in increments over the term of the district are unlikely to eliminate the insufficiency.

(b) The commissioner may:

(1) establish the form of and time for applications under this subdivision; and

(2) require the municipality to provide the information that the commissioner determines is necessary or useful in evaluating the application.

(c) This subdivision does not apply to a district if the authority has made an election under subdivision 5, paragraph (c).

Subd. 7. **Limits on use of increments.** (a) Tax increments of an extended district may only be used to pay preexisting obligations of the district and administrative expenses, effective upon the final required approval of the extension under this section. All tax increments that are attributable to an extension of the duration of a district under this section must be used only to pay qualified obligations of the district. If increments from a district subject to this subdivision are pledged to pay preexisting obligations that are not qualified obligations, increments received under the duration limit, determined without regard to this section, must be used to pay qualified

obligations and preexisting obligations that are not qualified obligations in proportion to their relative shares of all payments due on all preexisting obligations.

(b) If the authority elects to extend the duration of a district under this section and if increments from one or more other districts are pledged to pay preexisting obligations of the extended district, increments from all of the districts may only be used to pay preexisting obligations and administrative expenses.

Subd. 8. **Decertification.** An extended district must be decertified at the end of the first calendar year when sufficient increments have been received to pay the qualified obligations of the extended district. Any remaining unspent increments must be distributed as excess increments under section 469.176, subdivision 2, clause (4).

History: *1Sp2003 c 21 art 10 s 8*

469.1813 ABATEMENT AUTHORITY.

[For text of subds 1 to 7, see M.S.2002]

Subd. 8. **Limitation on abatements.** In any year, the total amount of property taxes abated by a political subdivision under this section may not exceed (1) ten percent of the current levy, or (2) $200,000, whichever is greater. The limit under this subdivision does not apply to an uncollected abatement from a prior year that is added to the abatement levy.

[For text of subd 9, see M.S.2002]

History: *2003 c 127 art 10 s 26; art 12 s 19; 1Sp2003 c 21 art 10 s 11*

469.1815 ADMINISTRATIVE.

Subdivision 1. **Inclusion in proposed and final levies.** The political subdivision must add to its levy amount for the current year under sections 275.065 and 275.07 the total estimated amount of all current year abatements granted. If all or a portion of an abatement levy for a prior year was uncollected, the political subdivision may add the uncollected amount to its abatement levy for the current year. The tax amounts shown on the proposed notice under section 275.065, subdivision 3, and on the property tax statement under section 276.04, subdivision 2, are the total amounts before the reduction of any abatements that will be granted on the property.

[For text of subd 2, see M.S.2002]

History: *2003 c 127 art 10 s 27*

469.1831 NEIGHBORHOOD REVITALIZATION PROGRAM; FIRST CLASS CITY.

[For text of subds 1 to 3, see M.S.2002]

Subd. 4. **Program money; distribution and restrictions.** (a) Neighborhood revitalization program money may only be expended in accordance with the program for a purpose listed in subdivision 3 or this subdivision. Program money may not be used in those project areas of the city where the city determines that private investment will be sufficient to provide for development and redevelopment of the project area without public sector assistance, except in cases where program money is being used to remove or rehabilitate structurally substandard or obsolete buildings. Revenues derived from tax increments may only be expended for the purposes otherwise permitted by law, except that notwithstanding any law to the contrary, the city must pay at least the following amount of program money, including revenues derived from tax increments: (1) 15 percent to the school district, (2) 7.5 percent to the county, and (3) 7.5 percent for social services. Payment must be made to the county and school district within 15 days after the city receives the distribution of increment revenues, provided that the payment for calendar year 1990 may be made at any time during the year. Payment to the county for social services delivery shall be paid only after approval of program and spending plans under paragraph (b). Payment to the school district for education

programs and services shall be paid only after approval of program and spending plans under paragraph (b).

(b) The money distributed to the county in a calendar year must be deducted from the county's levy limit for the following calendar year. In calculating the county's levy limit base for later years, the amount deducted must be treated as a local government aid payment.

The city must notify the commissioner of education of the amount of the payment made to the school district for the year. The commissioner shall deduct from the school district's state education aid payments one-half of the amount received by the school district.

The program money paid to the school district by the city less any amount of state aid deducted by the commissioner must be expended for additional education programs and services in accordance with the program. The amounts expended by the school district may not replace existing services.

The money for social services must be paid to the county for the cost of the provision of social services under the plan, as approved by the policy board and the county board.

(c) The city must expend on housing programs and related purposes as provided by the program at least 75 percent of the program money, after deducting the payments to the school district and county.

(d) Notwithstanding any other provisions of law to the contrary, for a city of the first class qualifying under section 469.1781, paragraph (a), program money and money described in Laws 1990, chapter 604, article 7, section 29, as amended, may be expended anywhere within the city by the authority for a purpose permitted by this section for any political subdivision without compliance with section 469.175, subdivision 4, and such money shall be deemed to be expended for a purpose that is a permitted project under section 469.176 and for a purpose that is permitted under section 469.176 for the district from which the increment was received.

[For text of subds 5 to 8, see M.S.2002]

History: *2003 c 130 s 12*

469.201 DEFINITIONS.

[For text of subds 1 to 4, see M.S.2002]

Subd. 5. **Commissioner.** "Commissioner" means the commissioner of employment and economic development.

[For text of subds 6 to 12, see M.S.2002]

History: *1Sp2003 c 4 s 1*

469.203 TARGETED NEIGHBORHOOD REVITALIZATION AND FINANCING PROGRAM.

[For text of subds 1 to 3, see M.S.2002]

Subd. 4. **City approval of program.** (a) Before adoption of a revitalization program under paragraph (b), the city must submit a preliminary program to the commissioner and the Minnesota Housing Finance Agency for their comments. The city may not adopt the revitalization program until comments have been received from the state agencies or 30 days have elapsed without response after the program was sent to them. Comments received by the city from the state agencies within the 30-day period must be responded to in writing by the city before adoption of the program by the city.

(b) The city may adopt a revitalization program only after holding a public hearing after the program has been prepared. Notice of the hearing must be provided in a newspaper of general circulation in the city and in the most widely circulated

community newspaper in the targeted neighborhoods not less than ten days nor more than 30 days before the date of the hearing.

(c) A certification by the city that a revitalization program has been approved by the city council for the targeted neighborhood must be provided to the commissioner together with a copy of the program. A copy of the program must also be provided to the Minnesota Housing Finance Agency and the commissioner of employment and economic development.

(d) A revitalization program for the city may be modified at any time by the city council after a public hearing, notice of which is published in a newspaper of general circulation in the city and in the targeted neighborhood at least ten days nor more than 30 days before the date of the hearing. If the city council determines that the proposed modification is a significant modification to the program originally certified under paragraph (c), the city council shall implement the revitalization program approval and certification process of this subdivision for the proposed modification.

History: *1Sp2003 c 4 s 1*

469.309 RURAL JOB CREATION GRANTS.

Subdivision 1. **Job creation grants.** The commissioner of employment and economic development may approve an incentive grant for an eligible business beginning with calendar year 1995. The maximum grant is $5,000 per eligible employee. The actual grant is based on the following schedule:

$2,000 for each eligible employee with wages greater than or equal to 170 percent and less than 200 percent of the minimum wage;

$3,000 for each eligible employee with wages greater than or equal to 200 percent and less than 250 percent of the minimum wage;

$4,000 for each eligible employee with wages greater than or equal to 250 percent and less than 300 percent of the minimum wage; and

$5,000 for each eligible employee with wages greater than or equal to 300 percent of the minimum wage.

The total grant for an employer is equal to the actual grant multiplied by the number of employees eligible for that grant. For purposes of this section "minimum wage" means the minimum wage that is required by federal law. An eligible business may apply for a rural job creation grant only once for each new job.

[For text of subds 2 to 4, see M.S.2002]

History: *1Sp2003 c 4 s 1*

469.310 DEFINITIONS.

Subdivision 1. **Scope.** For purposes of sections 469.310 to 469.320, the following terms have the meanings given.

Subd. 2. **Agricultural processing facility.** "Agricultural processing facility" means one or more facilities or operations that transform, package, sort, or grade livestock or livestock products, agricultural commodities, or plants or plant products into goods that are used for intermediate or final consumption including goods for nonfood use, and surrounding property.

Subd. 3. **Applicant.** "Applicant" means a local government unit or units applying for designation of an area as a job opportunity building zone or a joint powers board, established under section 471.59, acting on behalf of two or more local government units.

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of employment and economic development.

Subd. 5. **Development plan.** "Development plan" means a plan meeting the requirements of section 469.311.

Subd. 6. **Job opportunity building zone or zone.** "Job opportunity building zone" or "zone" means a zone designated by the commissioner under section 469.314, and includes an agricultural processing facility zone.

Subd. 7. **Job opportunity building zone percentage or zone percentage.** "Job opportunity building zone percentage" or "zone percentage" means the following fraction reduced to a percentage:

(1) the numerator of the fraction is:

(i) the ratio of the taxpayer's property factor under section 290.191 located in the zone for the taxable year over the property factor numerator determined under section 290.191, plus

(ii) the ratio of the taxpayer's job opportunity building zone payroll factor under subdivision 8 over the payroll factor numerator determined under section 290.191; and

(2) the denominator of the fraction is two.

When calculating the zone percentage for a business that is part of a unitary business as defined under section 290.17, subdivision 4, the denominator of the payroll and property factors is the Minnesota payroll and property of the unitary business as reported on the combined report under section 290.17, subdivision 4, paragraph (j).

Subd. 8. **Job opportunity building zone payroll factor.** "Job opportunity building zone payroll factor" or "job opportunity building zone payroll" is that portion of the payroll factor under section 290.191 that represents:

(1) wages or salaries paid to an individual for services performed in a job opportunity building zone; or

(2) wages or salaries paid to individuals working from offices within a job opportunity building zone if their employment requires them to work outside the zone and the work is incidental to the work performed by the individual within the zone.

Subd. 9. **Local government unit.** "Local government unit" means a statutory or home rule charter city, county, town, Iron Range Resources and Rehabilitation Agency, Regional Development Commission, or a federally designated economic development district.

Subd. 10. **Person.** "Person" includes an individual, corporation, partnership, limited liability company, association, or any other entity.

Subd. 11. **Qualified business.** (a) "Qualified business" means a person carrying on a trade or business at a place of business located within a job opportunity building zone.

(b) A person that relocates a trade or business from outside a job opportunity building zone into a zone is not a qualified business, unless the business:

(1)(i) increases full-time employment in the first full year of operation within the job opportunity building zone by at least 20 percent measured relative to the operations that were relocated and maintains the required level of employment for each year the zone designation applies; or

(ii) makes a capital investment in the property located within a zone equivalent to ten percent of the gross revenues of operation that were relocated in the immediately preceding taxable year; and

(2) enters a binding written agreement with the commissioner that:

(i) pledges the business will meet the requirements of clause (1);

(ii) provides for repayment of all tax benefits enumerated under section 469.315 to the business under the procedures in section 469.319, if the requirements of clause (1) are not met for the taxable year or for taxes payable during the year in which the requirements were not met; and

(iii) contains any other terms the commissioner determines appropriate.

Subd. 12. **Relocates.** (a) "Relocates" means that the trade or business:

(1) ceases one or more operations or functions at another location in Minnesota and begins performing substantially the same operations or functions at a location in a job opportunity building zone; or

(2) reduces employment at another location in Minnesota during a period starting one year before and ending one year after it begins operations in a job opportunity building zone and its employees in the job opportunity building zone are engaged in the same line of business as the employees at the location where it reduced employment.

(b) "Relocate" does not include an expansion by a business that establishes a new facility that does not replace or supplant an existing operation or employment, in whole or in part.

(c) "Trade or business" includes any business entity that is substantially similar in operation or ownership to the business entity seeking to be a qualified business under this section.

History: *1Sp2003 c 4 s 1; 1Sp2003 c 21 art 1 s 15*

469.311 DEVELOPMENT PLAN.

(a) An applicant for designation of a job opportunity building zone must adopt a written development plan for the zone before submitting the application to the commissioner.

(b) The development plan must contain, at least, the following:

(1) a map of the proposed zone that indicates the geographic boundaries of the zone, the total area, and present use and conditions generally of the land and structures within those boundaries;

(2) evidence of community support and commitment from local government, local workforce investment boards, school districts, and other education institutions, business groups, and the public;

(3) a description of the methods proposed to increase economic opportunity and expansion, facilitate infrastructure improvement, reduce the local regulatory burden, and identify job-training opportunities;

(4) current social, economic, and demographic characteristics of the proposed zone and anticipated improvements in education, health, human services, and employment if the zone is created;

(5) a description of anticipated activity in the zone and each subzone, including, but not limited to, industrial use, industrial site reuse, commercial or retail use, and residential use; and

(6) any other information required by the commissioner.

History: *1Sp2003 c 21 art 1 s 16*

469.312 JOB OPPORTUNITY BUILDING ZONES; LIMITATIONS.

Subdivision 1. **Maximum size.** A job opportunity building zone may not exceed 5,000 acres. For a zone designated as an agricultural processing facility zone, the zone also may not exceed the size of a site necessary for the agricultural processing facility, including ancillary operations and space for expansion in the reasonably foreseeable future.

Subd. 2. **Subzones.** The area of a job opportunity building zone may consist of one or more noncontiguous areas or subzones.

Subd. 3. **Outside metropolitan area.** The area of a job opportunity building zone must be located outside of the metropolitan area, as defined in section 473.121, subdivision 2.

Subd. 4. **Border city development zones.** (a) The area of a job opportunity building zone may not include the area of a border city development zone designated under section 469.1731. The city may remove property from a border city development zone contingent upon the area being designated as a job opportunity building zone. Before removing a parcel of property from a border city development zone, the city must obtain the written consent to the removal from each recipient that is located on the

parcel and receives incentives under the border city development zone. Consent of any other property owner or taxpayer in the border city development zone is not required.

(b) A city may not provide tax incentives under section 469.1734 to individuals or businesses for operations or activity in a job opportunity building zone.

Subd. 5. **Duration limit.** The maximum duration of a zone is 12 years. The applicant may request a shorter duration. The commissioner may specify a shorter duration, regardless of the requested duration.

History: *1Sp2003 c 21 art 1 s 17*

469.313 APPLICATION FOR DESIGNATION.

Subdivision 1. **Who may apply.** One or more local government units, or a joint powers board under section 471.59, acting on behalf of two or more units, may apply for designation of an area as a job opportunity building zone. All or part of the area proposed for designation as a zone must be located within the boundaries of each of the governmental units. A local government unit may not submit or have submitted on its behalf more than one application for designation of a job opportunity building zone.

Subd. 2. **Application content.** The application must include:

(1) a development plan meeting the requirements of section 469.311;

(2) the proposed duration of the zone, not to exceed 12 years;

(3) a resolution or ordinance adopted by each of the cities or towns and the counties in which the zone is located, agreeing to provide all of the local tax exemptions provided under section 469.315;

(4) if the proposed zone includes area in a border city development zone, written consent to removal of the property from the border city development zone to the extent required by section 469.312, subdivision 4;

(5) an agreement by the applicant to treat incentives provided under the zone designation as business subsidies under sections 116J.993 to 116J.995 and to comply with the requirements of that law; and

(6) supporting evidence to allow the commissioner to evaluate the application under the criteria in section 469.314.

History: *1Sp2003 c 21 art 1 s 18*

469.314 DESIGNATION OF JOB OPPORTUNITY BUILDING ZONES.

Subdivision 1. **Commissioner to designate.** (a) The commissioner, in consultation with the commissioner of revenue, shall designate not more than ten job opportunity building zones. In making the designations, the commissioner shall consider need and likelihood of success to yield the most economic development and revitalization of economically distressed rural areas of Minnesota.

(b) In addition to the designations under paragraph (a), the commissioner may, in consultation with the commissioners of agriculture and revenue, designate up to five agricultural processing facility zones.

(c) The commissioner may, upon designation of a zone, modify the development plan, including the boundaries of the zone or subzones, if in the commissioner's opinion a modified plan would better meet the objectives of the job opportunity building zone program. The commissioner shall notify the applicant of the modification and provide a statement of the reasons for the modifications.

Subd. 2. **Need indicators.** (a) In evaluating applications to determine the need for designation of a job opportunity building zone, the commissioner shall consider the following factors as indicators of need:

(1) the percentage of the population that is below 200 percent of the poverty rate, compared with the state as a whole;

(2) the extent to which the area's average weekly wage is significantly lower than the state average weekly wage;

(3) the amount of property in or near the proposed zone that is deteriorated or underutilized;

(4) the extent to which the median sale price of housing units in the area is below the state median;

(5) the extent to which the median household income of the area is lower than the state median household income;

(6) the extent to which the area experienced a population loss during the 20-year period ending the year before the application is made;

(7) the extent to which an area has experienced sudden or severe job loss as a result of closing of businesses or other employers;

(8) the extent to which property in the area would remain underdeveloped or nonperforming due to physical characteristics;

(9) the extent to which the area has substantial real property with adequate infrastructure and energy to support new or expanded development; and

(10) the extent to which the business startup or expansion rates are significantly lower than the respective rate for the state.

(b) In applying the need indicators, the best available data should be used. If reported data are not available for the proposed zone, data for the smallest area that is available and includes the area of the proposed zone may be used. The commissioner may require applicants to provide data to demonstrate how the area meets one or more of the indicators of need.

Subd. 3. **Success indicators.** In determining the likelihood of success of a proposed zone, the commissioner shall consider:

(1) the strength and viability of the proposed development goals, objectives, and strategies in the development plan;

(2) whether the development plan is creative and innovative in comparison to other applications;

(3) local public and private commitment to development of the proposed zone and the potential cooperation of surrounding communities;

(4) existing resources available to the proposed zone;

(5) how the designation of the zone would relate to other economic and community development projects and to regional initiatives or programs;

(6) how the regulatory burden will be eased for businesses operating in the proposed zone;

(7) proposals to establish and link job creation and job training; and

(8) the extent to which the development is directed at encouraging and that designation of the zone is likely to result in the creation of high-paying jobs.

Subd. 4. **Designation schedule.** (a) The schedule in paragraphs (b) to (f) applies to the designation of job opportunity building zones.

(b) The commissioner shall publish the form for applications and any procedural, form, or content requirements for applications by no later than August 1, 2003. The commissioner may publish these requirements on the Internet, in the State Register, or by any other means the commissioner determines appropriate to disseminate the information to potential applicants for designation.

(c) Applications must be submitted by October 15, 2003.

(d) The commissioner shall designate the zones by no later than December 31, 2003.

(e) The designation of the zones takes effect January 1, 2004.

(f) The commissioner may reserve one or more of the ten authorized zones for a second round of designations in calendar year 2004. If the commissioner chooses to reserve designations for this purpose, the commissioner shall establish the schedule for the second round of designations, notwithstanding the dates in paragraphs (c), (d), and (e). The commissioner shall allow a period of at least 90 days for submission of

applications after notification of the second round. A zone designated in the second round takes effect on January 1, 2005.

Subd. 5. **Geographic distribution.** The commissioner shall have as a goal the geographic distribution of zones around the state.

Subd. 6. **Rulemaking exemption.** The commissioner's actions in establishing procedures, requirements, and making determinations to administer sections 469.310 to 469.320 are not a rule for purposes of chapter 14 and are not subject to the Administrative Procedure Act contained in chapter 14 and are not subject to section 14.386.

History: *1Sp2003 c 21 art 1 s 19*

469.315 TAX INCENTIVES AVAILABLE IN ZONES.

Qualified businesses that operate in a job opportunity building zone, individuals who invest in a qualified business that operates in a job opportunity building zone, and property located in a job opportunity building zone qualify for:

(1) exemption from individual income taxes as provided under section 469.316;

(2) exemption from corporate franchise taxes as provided under section 469.317;

(3) exemption from the state sales and use tax and any local sales and use taxes on qualifying purchases as provided in section 297A.68, subdivision 37;

(4) exemption from the state sales tax on motor vehicles and any local sales tax on motor vehicles as provided under section 297B.03;

(5) exemption from the property tax as provided in section 272.02, subdivision 64;

(6) exemption from the wind energy production tax under section 272.029, subdivision 7; and

(7) the jobs credit allowed under section 469.318.

History: *1Sp2003 c 21 art 1 s 20*

469.316 INDIVIDUAL INCOME TAX EXEMPTION.

Subdivision 1. **Application.** An individual operating a trade or business in a job opportunity building zone, and an individual making a qualifying investment in a qualified business operating in a job opportunity building zone qualifies for the exemptions from taxes imposed under chapter 290, as provided in this section. The exemptions provided under this section apply only to the extent that the income otherwise would be taxable under chapter 290. Subtractions under this section from federal taxable income, alternative minimum taxable income, or any other base subject to tax are limited to the amount that otherwise would be included in the tax base absent the exemption under this section. This section applies only to taxable years beginning during the duration of the job opportunity building zone.

Subd. 2. **Rents.** An individual is exempt from the taxes imposed under chapter 290 on net rents derived from real or tangible personal property located in a zone for a taxable year in which the zone was designated a job opportunity building zone. If tangible personal property was used both within and outside of the zone, the exemption amount for the net rental income must be multiplied by a fraction, the numerator of which is the number of days the property was used in the zone and the denominator of which is the total days.

Subd. 3. **Business income.** An individual is exempt from the taxes imposed under chapter 290 on net income from the operation of a qualified business in a job opportunity building zone. If the trade or business is carried on within and without the zone and the individual is not a resident of Minnesota, the exemption must be apportioned based on the zone percentage for the taxable year. If the trade or business is carried on within and without the zone and the individual is a resident of Minnesota, the exemption must be apportioned based on the zone percentage for the taxable year, except the ratios under section 469.310, subdivision 7, clause (1), items (i) and (ii), must use the denominators of the property and payroll factors determined under section 290.191. No subtraction is allowed under this section in excess of 20 percent of

the sum of the job opportunity building zone payroll and the adjusted basis of the property at the time that the property is first used in the job opportunity building zone by the business.

Subd. 4. **Capital gains.** (a) An individual is exempt from the taxes imposed under chapter 290 on:

(1) net gain derived on a sale or exchange of real property located in the zone and used by a qualified business. If the property was held by the individual during a period when the zone was not designated, the gain must be prorated based on the percentage of time, measured in calendar days, that the real property was held by the individual during the period the zone designation was in effect to the total period of time the real property was held by the individual;

(2) net gain derived on a sale or exchange of tangible personal property used by a qualified business in the zone. If the property was held by the individual during a period when the zone was not designated, the gain must be prorated based on the percentage of time, measured in calendar days, that the property was held by the individual during the period the zone designation was in effect to the total period of time the property was held by the individual. If the tangible personal property was used outside of the zone during the period of the zone's designation, the exemption must be multiplied by a fraction, the numerator of which is the number of days the property was used in the zone during the time of the designation and the denominator of which is the total days the property was held during the time of the designation; and

(3) net gain derived on a sale of an ownership interest in a qualified business operating in the job opportunity building zone, meeting the requirements of paragraph (b). The exemption on the gain must be multiplied by the zone percentage of the business for the taxable year prior to the sale.

(b) A qualified business meets the requirements of paragraph (a), clause (3), if it is a corporation, an S corporation, or a partnership, and for the taxable year its job opportunity building zone percentage exceeds 25 percent. For purposes of paragraph (a), clause (3), the zone percentage must be calculated by modifying the ratios under section 469.310, subdivision 7, clause (1), items (i) and (ii), to use the denominators of the property and payroll factors determined under section 290.191. Upon the request of an individual holding an ownership interest in the entity, the entity must certify to the owner, in writing, the job opportunity building zone percentage needed to determine the exemption.

History: *1Sp2003 c 21 art 1 s 21*

469.317 CORPORATE FRANCHISE TAX EXEMPTION.

(a) A qualified business is exempt from taxation under section 290.02, the alternative minimum tax under section 290.0921, and the minimum fee under section 290.0922, on the portion of its income attributable to operations within the zone. This exemption is determined as follows:

(1) for purposes of the tax imposed under section 290.02, by multiplying its taxable net income by its zone percentage and subtracting the result in determining taxable income;

(2) for purposes of the alternative minimum tax under section 290.0921, by multiplying its alternative minimum taxable income by its zone percentage and reducing alternative minimum taxable income by this amount; and

(3) for purposes of the minimum fee under section 290.0922, by excluding property and payroll in the zone from the computations of the fee or by exempting the entity under section 290.0922, subdivision 2, clause (7).

(b) No subtraction is allowed under this section in excess of 20 percent of the sum of the corporation's job opportunity building zone payroll and the adjusted basis of the property at the time that the property is first used in the job opportunity building zone by the corporation.

(c) This section applies only to taxable years beginning during the duration of the job opportunity building zone.

History: *1Sp2003 c 21 art 1 s 22*

469.318 JOBS CREDIT.

Subdivision 1. **Credit allowed.** A qualified business is allowed a credit against the taxes imposed under chapter 290. The credit equals seven percent of the:

(1) lesser of:

(i) zone payroll for the taxable year, less the zone payroll for the base year; or

(ii) total Minnesota payroll for the taxable year, less total Minnesota payroll for the base year; minus

(2) $30,000 multiplied by (the number of full-time equivalent employees that the qualified business employs in the job opportunity building zone for the taxable year, minus the number of full-time equivalent employees the business employed in the zone in the base year, but not less than zero).

Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Base year" means the taxable year beginning during the calendar year prior to the calendar year in which the zone designation took effect.

(c) "Full-time equivalent employees" means the equivalent of annualized expected hours of work equal to 2,080 hours.

(d) "Minnesota payroll" means the wages or salaries attributed to Minnesota under section 290.191, subdivision 12, for the qualified business or the unitary business of which the qualified business is a part, whichever is greater.

(e) "Zone payroll" means wages or salaries used to determine the zone payroll factor for the qualified business, less the amount of compensation attributable to any employee that exceeds $100,000.

Subd. 3. **Inflation adjustment.** For taxable years beginning after December 31, 2004, the dollar amounts in subdivision 1, clause (2), and subdivision 2, paragraph (e), are annually adjusted for inflation. The commissioner of revenue shall adjust the amounts by the percentage determined under section 290.06, subdivision 2d, for the taxable year.

Subd. 4. **Refundable.** If the amount of the credit exceeds the liability for tax under chapter 290, the commissioner of revenue shall refund the excess to the qualified business.

Subd. 5. **Appropriation.** An amount sufficient to pay the refunds authorized by this section is appropriated to the commissioner of revenue from the general fund.

History: *1Sp2003 c 21 art 1 s 23*

469.319 REPAYMENT OF TAX BENEFITS.

Subdivision 1. **Repayment obligation.** A business must repay the amount of the total tax reduction listed in section 469.315 and any refund under section 469.318 in excess of tax liability, received during the two years immediately before it ceased to operate in the zone, if the business:

(1) received tax reductions authorized by section 469.315; and

(2)(i) did not meet the goals specified in an agreement entered into with the applicant that states any obligation the qualified business must fulfill in order to be eligible for tax benefits. The commissioner may extend for up to one year the period for meeting any goals provided in an agreement. The applicant may extend the period for meeting other goals by documenting in writing the reason for the extension and attaching a copy of the document to its next annual report to the commissioner; or

(ii) ceased to operate its facility located within the job opportunity building zone or otherwise ceases to be or is not a qualified business.

Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Business" means any person who received tax benefits enumerated in section 469.315.

(c) "Commissioner" means the commissioner of revenue.

Subd. 3. **Disposition or repayment.** The repayment must be paid to the state to the extent it represents a state tax reduction and to the county to the extent it represents a property tax reduction. Any amount repaid to the state must be deposited in the general fund. Any amount repaid to the county for the property tax exemption must be distributed to the local governments with authority to levy taxes in the zone in the same manner provided for distribution of payment of delinquent property taxes. Any repayment of local sales taxes must be repaid to the city or county imposing the local sales tax.

Subd. 4. **Repayment procedures.** (a) For the repayment of taxes imposed under chapter 290 or 297A or local taxes collected pursuant to section 297A.99, a business must file an amended return with the commissioner of revenue and pay any taxes required to be repaid within 30 days after ceasing to do business in the zone. The amount required to be repaid is determined by calculating the tax for the period or periods for which repayment is required without regard to the exemptions and credits allowed under section 469.315.

(b) For the repayment of taxes imposed under chapter 297B, a business must pay any taxes required to be repaid to the motor vehicle registrar, as agent for the commissioner of revenue, within 30 days after ceasing to do business in the zone.

(c) For the repayment of property taxes, the county auditor shall prepare a tax statement for the business, applying the applicable tax extension rates for each payable year and provide a copy to the business. The business must pay the taxes to the county treasurer within 30 days after receipt of the tax statement. The taxpayer may appeal the valuation and determination of the property tax to the Tax Court within 30 days after receipt of the tax statement.

(d) The provisions of chapters 270 and 289A relating to the commissioner's authority to audit, assess, and collect the tax and to hear appeals are applicable to the repayment required under paragraphs (a) and (b). The commissioner may impose civil penalties as provided in chapter 289A, and the additional tax and penalties are subject to interest at the rate provided in section 270.75, from 30 days after ceasing to do business in the job opportunity building zone until the date the tax is paid.

(e) If a property tax is not repaid under paragraph (c), the county treasurer shall add the amount required to be repaid to the property taxes assessed against the property for payment in the year following the year in which the treasurer discovers that the business ceased to operate in the job opportunity building zone.

(f) For determining the tax required to be repaid, a tax reduction is deemed to have been received on the date that the tax would have been due if the taxpayer had not been entitled to the exemption or on the date a refund was issued for a refundable tax credit.

(g) The commissioner may assess the repayment of taxes under paragraph (d) any time within two years after the business ceases to operate in the job opportunity building zone, or within any period of limitations for the assessment of tax under section 289A.38, whichever period is later.

Subd. 5. **Waiver authority.** The commissioner may waive all or part of a repayment, if the commissioner, in consultation with the commissioner of employment and economic development and appropriate officials from the local government units in which the qualified business is located, determines that requiring repayment of the tax is not in the best interest of the state or the local government units and the business ceased operating as a result of circumstances beyond its control including, but not limited to:

(1) a natural disaster;

(2) unforeseen industry trends; or

(3) loss of a major supplier or customer.

History: *1Sp2003 c 4 s 1; 1Sp2003 c 21 art 1 s 24*

469.320 ZONE PERFORMANCE; REMEDIES.

Subdivision 1. **Reporting requirement.** An applicant receiving designation of a job opportunity building zone under section 469.314 must annually report to the commissioner on its progress in meeting the zone performance goals under the development plan for the zone and the applicant's compliance with the business subsidy law under sections 116J.993 to 116J.995.

Subd. 2. **Procedures.** For reports required by subdivision 1, the commissioner may prescribe:

(1) the required time or times by which the reports must be filed;

(2) the form of the report; and

(3) the information required to be included in the report.

Subd. 3. **Remedies.** If the commissioner determines, based on a report filed under subdivision 1 or other available information, that a zone or subzone is failing to meet its performance goals, the commissioner may take any actions the commissioner determines appropriate, including modification of the boundaries of the zone or a subzone or termination of the zone or a subzone. Before taking any action, the commissioner shall consult with the applicant and the affected local government units, including notifying them of the proposed actions to be taken. The commissioner shall publish any order modifying a zone in the State Register and on the Internet. The applicant may appeal the commissioner's order under the contested case procedures of chapter 14.

Subd. 4. **Existing businesses.** (a) An action to remove area from a zone or to terminate a zone under this section does not apply to:

(1) the property tax on improvements constructed before the first January 2 following publication of the commissioner's order;

(2) sales tax on purchases made before the first day of the next calendar month beginning at least 30 days after publication of the commissioner's order; and

(3) individual income tax or corporate franchise tax attributable to a facility that was in operation before the publication of the commissioner's order.

(b) The tax exemptions specified in paragraph (a) terminate on the date on which the zone expires under the original designation.

History: *1Sp2003 c 21 art 1 s 25*

469.330 DEFINITIONS.

Subdivision 1. **Scope.** For purposes of sections 469.330 to 469.341, the following terms have the meanings given.

Subd. 2. **Applicant.** "Applicant" means a local government unit or units applying for designation of an area as a biotechnology and health sciences industry zone or a joint powers board, established under section 471.59, acting on behalf of two or more local government units.

Subd. 3. **Biotechnology and health sciences industry facility.** "Biotechnology and health sciences industry facility" means one or more facilities or operations involved in:

(1) researching, developing, and/or manufacturing a biotechnology product or service or a biotechnology-related health sciences product or service;

(2) researching, developing, and/or manufacturing a biotechnology medical device product or service or a biotechnology-related medical device product or service; or

(3) promoting, supplying, or servicing a facility or operation involved in clause (1) or (2), if the business derives more than 50 percent of its gross receipts from those activities.

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of employment and economic development.

Subd. 5. **Development plan.** "Development plan" means a plan meeting the requirements of section 469.331.

Subd. 6. **Biotechnology and health sciences industry zone or zone.** "Biotechnology and health sciences industry zone" or "zone" means a zone designated by the commissioner under section 469.334.

Subd. 7. **Biotechnology and health sciences industry zone percentage or zone percentage.** "Biotechnology and health sciences industry zone percentage" or "zone percentage" means the following fraction reduced to a percentage:

(1) the numerator of the fraction is:

(i) the ratio of the taxpayer's property factor under section 290.191 located in the zone for the taxable year over the property factor numerator determined under section 290.191, plus

(ii) the ratio of the taxpayer's biotechnology and health sciences industry zone payroll factor under subdivision 8 over the payroll factor numerator determined under section 290.191; and

(2) the denominator of the fraction is two.

When calculating the zone percentage for a business that is part of a unitary business as defined under section 290.17, subdivision 4, the denominator of the payroll and property factors is the Minnesota payroll and property of the unitary business as reported on the combined report under section 290.17, subdivision 4, paragraph (j).

Subd. 8. **Biotechnology and health sciences industry zone payroll factor.** "Biotechnology and health sciences industry zone payroll factor" or "biotechnology and health sciences industry zone payroll" is that portion of the payroll factor under section 290.191 that represents:

(1) wages or salaries paid to an individual for services performed for a qualified business in a biotechnology and health sciences industry zone; or

(2) wages or salaries paid to individuals working from offices of a qualified business within a biotechnology and health sciences industry zone if their employment requires them to work outside the zone and the work is incidental to the work performed by the individual within the zone.

Subd. 9. **Local government unit.** "Local government unit" means a statutory or home rule charter city, county, town, or school district.

Subd. 10. **Person.** "Person" includes an individual, corporation, partnership, limited liability company, association, or any other entity.

Subd. 11. **Qualified business.** (a) "Qualified business" means a person carrying on a trade or business at a biotechnology and health sciences industry facility located within a biotechnology and health sciences industry zone.

(b) A person that relocates a biotechnology and health sciences industry facility from outside a biotechnology and health sciences industry zone into a zone is not a qualified business, unless the business:

(1)(i) increases full-time employment in the first full year of operation within the biotechnology and health sciences industry zone by at least 20 percent measured relative to the operations that were relocated and maintains the required level of employment for each year the zone designation applies; or

(ii) makes a capital investment in the property located within a zone equivalent to ten percent of the gross revenues of operation that were relocated in the immediately preceding taxable year; and

(2) enters a binding written agreement with the commissioner that:

(i) pledges the business will meet the requirements of clause (1);

(ii) provides for repayment of all tax benefits enumerated under section 469.336 to the business under the procedures in section 469.340, if the requirements of clause (1) are not met; and

(iii) contains any other terms the commissioner determines appropriate.

Subd. 12. **Relocates.** (a) "Relocates" means that the trade or business:

(1) ceases one or more operations or functions at another location in Minnesota and begins performing substantially the same operations or functions at a location in a biotechnology and health sciences industry zone; or

(2) reduces employment at another location in Minnesota during a period starting one year before and ending one year after it begins operations in a biotechnology and health sciences industry zone and its employees in the biotechnology and health sciences industry zone are engaged in the same line of business as the employees at the location where it reduced employment.

(b) "Relocate" does not include an expansion by a business that establishes a new facility that does not replace or supplant an existing operation or employment, in whole or in part.

History: *1Sp2003 c 4 s 1; 1Sp2003 c 21 art 2 s 9*

469.331 DEVELOPMENT PLAN.

(a) An applicant for designation of a biotechnology and health sciences industry zone must adopt a written development plan for the zone before submitting the application to the commissioner.

(b) The development plan must contain, at least, the following:

(1) a map of the proposed zone that indicates the geographic boundaries of the zone, the total area, and present use and conditions generally of the land and structures within those boundaries;

(2) evidence of community support and commitment from local government, local workforce investment boards, school districts, and other education institutions, business groups, and the public;

(3) a description of the methods proposed to increase economic opportunity and expansion, facilitate infrastructure improvement, reduce the local regulatory burden, and identify job-training opportunities;

(4) current social, economic, and demographic characteristics of the proposed zone and anticipated improvements in education, health, human services, and employment if the zone is created;

(5) a description of anticipated activity in the zone and each subzone, including, but not limited to, industrial use and industrial site reuse;

(6) a description of the tax exemptions under section 469.336 to be provided to each qualifying business based on a development agreement between the applicant and each qualified business. The development agreement must also state any obligations the qualified business must fulfill in order to be eligible for tax benefits; and

(7) any other information required by the commissioner.

History: *1Sp2003 c 21 art 2 s 10*

469.332 BIOTECHNOLOGY AND HEALTH SCIENCES INDUSTRY ZONE; LIMITATIONS.

Subdivision 1. **Maximum size.** A biotechnology and health sciences industry zone may not exceed 5,000 acres.

Subd. 2. **Subzones.** The area of a biotechnology and health sciences industry zone may consist of one or more noncontiguous areas or subzones.

Subd. 3. **Duration limit.** The maximum duration of a zone is 12 years. The applicant may request a shorter duration. The commissioner may specify a shorter duration, regardless of the requested duration.

History: *1Sp2003 c 21 art 2 s 11*

469.333 APPLICATION FOR DESIGNATION.

Subdivision 1. **Who may apply.** One or more local government units, or a joint powers board under section 471.59, acting on behalf of two or more units, may apply for designation of an area as a biotechnology and health sciences industry zone. All or part of the area proposed for designation as a zone must be located within the boundaries of each of the governmental units. A local government unit may not submit or have submitted on its behalf more than one application for designation of a biotechnology and health sciences industry zone.

Subd. 2. **Application content.** The application must include:

(1) a development plan meeting the requirements of section 469.331;

(2) the proposed duration of the zone, not to exceed 12 years;

(3)(i) a resolution or ordinance adopted by each of the cities or towns and the counties in which the zone is located, agreeing to provide all of the local sales and use tax exemptions provided under section 469.336; or (ii) a resolution or ordinance adopted by each of the cities or towns and the counties in which the zone is located that declares whether it will provide property tax exemptions under section 469.336;

(4) an agreement by the applicant to treat incentives provided under the zone designation as business subsidies under sections 116J.993 to 116J.995 and to comply with the requirements of that law; and

(5) supporting evidence to allow the commissioner to evaluate the application under the criteria in section 469.334.

History: *1Sp2003 c 21 art 2 s 12*

469.334 DESIGNATION OF BIOTECHNOLOGY AND HEALTH SCIENCES INDUSTRY ZONE.

Subdivision 1. **Commissioner to designate.** (a) The commissioner, in consultation with the commissioner of revenue and the director of the Office of Strategic and Long-Range Planning, shall designate not more than one biotechnology and health sciences industry zone. Priority must be given to applicants with a development plan that links a higher education/research institution with a biotechnology and health sciences industry facility.

(b) The commissioner may consult with the applicant prior to the designation of the zone. The commissioner may modify the development plan, including the boundaries of the zone or subzones, if in the commissioner's opinion a modified plan would better meet the objectives of the biotechnology and health sciences industry zone program. The commissioner shall notify the applicant of the modifications and provide a statement of the reasons for the modifications.

Subd. 2. **Need indicators.** (a) In evaluating applications to determine the need for designation of a biotechnology and health sciences industry zone, the commissioner shall consider the following factors as indicators of need:

(1) the extent to which land in proximity to a significant scientific research institution could be developed as a higher and better use for biotechnology and health sciences industry facilities;

(2) the amount of property in or near the zone that is deteriorated or underutilized; and

(3) the extent to which property in the area would remain underdeveloped or nonperforming due to physical characteristics.

(b) The commissioner may require applicants to provide data to demonstrate how the area meets one or more of the indicators of need.

Subd. 3. **Success indicators.** In determining the likelihood of success of a proposed zone, the commissioner shall consider:

(1) applicants that show a viable link between a higher education/research institution, the biotechnology and/or medical devices business sectors, and one or more units of local government with a development plan;

(2) the extent to which the area has substantial real property with adequate infrastructure and energy to support new or expanded development;

(3) the strength and viability of the proposed development goals, objectives, and strategies in the development plan;

(4) whether the development plan is creative and innovative in comparison to other applications;

(5) local public and private commitment to development of a biotechnology and health sciences industry facility or facilities in the proposed zone and the potential cooperation of surrounding communities;

(6) existing resources available to the proposed zone;

(7) how the designation of the zone would relate to other economic and community development projects and to regional initiatives or programs;

(8) how the regulatory burden will be eased for biotechnology and health sciences industry facilities located in the proposed zone;

(9) proposals to establish and link job creation and job training in the biotechnology and health sciences industry with research/educational institutions; and

(10) the extent to which the development is directed at encouraging, and that designation of the zone is likely to result in, the creation of high-paying jobs.

Subd. 4. **Designation schedule.** (a) The schedule in paragraphs (b) to (e) applies to the designation of the biotechnology and health sciences industry zone.

(b) The commissioner shall publish the form for applications and any procedural, form, or content requirements for applications by no later than August 1, 2003. The commissioner may publish these requirements on the Internet, in the State Register, or by any other means the commissioner determines appropriate to disseminate the information to potential applicants for designation.

(c) Applications must be submitted by October 15, 2003.

(d) The commissioner shall designate the zones by no later than December 31, 2003.

(e) The designation of the zones takes effect January 1, 2004.

History: *1Sp2003 c 21 art 2 s 13*

469.335 APPLICATION FOR TAX BENEFITS.

(a) To claim a tax credit or exemption against a state tax under section 469.336, clauses (2) through (5), a business must apply to the commissioner for a tax credit certificate. As a condition of its application, the business must agree to furnish information to the commissioner that is sufficient to verify the eligibility for any credits or exemptions claimed. The total amount of the state tax credits and exemptions allowed for the specified period may not exceed the amount of the tax credit certificates provided by the commissioner to the business. The commissioner must verify to the commissioner of revenue the amount of tax exemptions or credits for which each business is eligible.

(b) A tax credit certificate issued under this section may specify the particular tax exemptions or credits against a state tax that the qualified business is eligible to claim under section 469.336, clauses (2) through (5), and the amount of each exemption or credit allowed.

(c) The commissioner may issue $1,000,000 of tax credits or exemptions in fiscal year 2004. Any tax credits or exemptions not awarded in fiscal year 2004 may be awarded in fiscal year 2005.

(d) A qualified business must use the tax credits or tax exemptions granted under this section by the later of the end of the state fiscal year or the taxpayer's tax year in which the credits or exemptions are granted.

History: *1Sp2003 c 21 art 2 s 14*

469.336 TAX INCENTIVES AVAILABLE IN ZONES.

Qualified businesses that operate in a biotechnology and health sciences industry zone, individuals who invest in a qualified business that operates in a biotechnology and health sciences industry zone, and property of a qualified business located in a biotechnology and health sciences industry zone qualify for:

(1) exemption from the property tax as provided in section 272.02, subdivision 65;

(2) exemption from corporate franchise taxes as provided under section 469.337;

(3) exemption from the state sales and use tax and any local sales and use taxes on qualifying purchases as provided in section 297A.68, subdivision 38;

(4) research and development credits as provided under section 469.339;

(5) jobs credits as provided under section 469.338.

History: *1Sp2003 c 21 art 2 s 15*

469.337 CORPORATE FRANCHISE TAX EXEMPTION.

(a) A qualified business is exempt from taxation under section 290.02, the alternative minimum tax under section 290.0921, and the minimum fee under section 290.0922, on the portion of its income attributable to operations of a qualified business within the biotechnology and health sciences industry zone. This exemption is determined as follows:

(1) for purposes of the tax imposed under section 290.02, by multiplying its taxable net income by its zone percentage and subtracting the result in determining taxable income;

(2) for purposes of the alternative minimum tax under section 290.0921, by multiplying its alternative minimum taxable income by its zone percentage and reducing alternative minimum taxable income by this amount; and

(3) for purposes of the minimum fee under section 290.0922, by excluding property and payroll in the zone from the computations of the fee.

(b) No subtraction is allowed under this section in excess of 20 percent of the sum of the corporation's biotechnology and health sciences industry zone payroll and the adjusted basis of the property at the time that the property is first used in the biotechnology and health sciences industry zone by the corporation.

(c) No reduction in tax is allowed in excess of the amount allocated under section 469.335.

History: *1Sp2003 c 21 art 2 s 16*

469.338 JOBS CREDIT.

Subdivision 1. **Credit allowed.** A qualified business is allowed a credit against the taxes imposed under chapter 290.

The credit equals seven percent of the:

(1) lesser of:

(i) zone payroll for the taxable year, less the zone payroll for the base year; or

(ii) total Minnesota payroll for the taxable year, less total Minnesota payroll for the base year; minus

(2) $30,000 multiplied by the number of full-time equivalent employee positions that the qualified business employs in the biotechnology and health sciences industry zone for the taxable year, minus the number of full-time equivalent employees the business employed in the zone in the base year, but not less than zero.

Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have the meaning given.

(b) "Base year" means the taxable year beginning during the calendar year in which the commissioner designated the zone.

(c) "Full-time equivalent employee position" means the equivalent of annualized expected hours of work equal to 2,080 hours.

(d) "Minnesota payroll" means the wages or salaries attributed to Minnesota under section 290.191, subdivision 12, for the qualified business or the unitary business of which the qualified business is a part, whichever is greater.

(e) "Zone payroll" means wages or salaries used to determine the zone payroll factor for the qualified business.

Subd. 3. **Inflation adjustment.** For taxable years beginning after December 31, 2004, the dollar amount in subdivision 1, clause (2), is annually adjusted for inflation. The commissioner of revenue shall adjust the amount by the percentage determined under section 290.06, subdivision 2d, for the taxable year.

Subd. 4. **Refundable.** If the amount of the credit calculated under this section and allocated to the qualified business under section 469.335 exceeds the liability for tax under chapter 290, the commissioner of revenue shall refund the excess to the qualified business.

History: *1Sp2003 c 21 art 2 s 17*

469.339 CREDIT FOR INCREASING RESEARCH ACTIVITIES IN A BIOTECHNOLOGY AND HEALTH SCIENCES ZONE.

Subdivision 1. **Credit allowed.** A corporation, other than a corporation treated as an "S" corporation under section 290.9725, is allowed a credit against the portion of the franchise tax computed under section 290.06, subdivision 1, for the taxable year equal to:

(1) five percent of the first $2,000,000 of the excess (if any) of (i) the qualified research expenses for the taxable year, over (ii) the base amount; and

(2) 2.5 percent of all such excess expenses over $2,000,000.

Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Qualified research expenses" means qualified research expenses and basic research payments as defined in section 41(b) and (e) of the Internal Revenue Code.

(c) "Qualified research" means activities in the fields of biotechnology or health sciences that are "qualified research" as defined in section 41(d) of the Internal Revenue Code, except that the term does not include qualified research conducted outside the biotechnology and health sciences industry zone.

(d) "Base amount" means base amount as defined in section 4(c) of the Internal Revenue Code, except that the average annual gross receipts must be calculated using Minnesota sales or receipts under section 290.191 and the definitions contained in paragraphs (b) and (c) apply.

(e) "Liability for tax" for purposes of this section means the tax imposed under this chapter for the taxable year reduced by the sum of the nonrefundable credits allowed under this chapter.

Subd. 3. **Refundable credit.** If the credit determined under this section and allocated to the taxpayer under section 469.335 for the taxable year exceeds the taxpayer's liability for tax for the year, the commissioner shall refund the difference to the taxpayer.

Subd. 4. **Partnerships.** For partnerships, the credit is allocated in the same manner provided by section 41(f)(2) of the Internal Revenue Code.

Subd. 5. **Adjustments; acquisitions and dispositions.** If a taxpayer acquires or disposes of the major portion of a trade or business or the major portion of a separate unit of a trade or business in a transaction with another taxpayer, the taxpayer's qualified research expenses and base amount are adjusted in the same manner provided by section 41(f)(3) of the Internal Revenue Code.

Subd. 6. **Interaction; regular research credit.** Any amount used to calculate a credit under this section may not be used to generate a credit under section 290.068.

History: *1Sp2003 c 21 art 2 s 18*

469.340 REPAYMENT OF TAX BENEFITS.

Subdivision 1. **Repayment obligation.** A business must repay the amount of the tax reduction listed in section 469.336 and any refunds under sections 469.338 and 469.339 in excess of tax liability, received during the two years immediately before it ceased to operate in the zone, if the business:

(1) received tax reductions authorized by section 469.336; and

(2)(i) did not meet the goals specified in an agreement entered into with the applicant that states any obligation the qualified business must fulfill in order to be eligible for tax benefits. The commissioner may extend for up to one year the period for meeting any goals provided in an agreement. The applicant may extend the period for meeting other goals by documenting in writing the reason for the extension and attaching a copy of the document to its next annual report to the commissioner; or

(ii) ceased to operate its facility located within the biotechnology and health sciences industry zone or otherwise ceases to be or is not a qualified business.

Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Business" means any person who received tax benefits enumerated in section 469.336.

(c) "Commissioner" means the commissioner of revenue.

Subd. 3. **Disposition or repayment.** The repayment must be paid to the state to the extent it represents a state tax reduction and to the county to the extent it represents a property tax reduction. Any amount repaid to the state must be deposited in the general fund. Any amount repaid to the county for the property tax exemption must be distributed to the local governments with authority to levy taxes in the zone in the same manner provided for distribution of payment of delinquent property taxes. Any repayment of local sales taxes must be repaid to the city or county imposing the local sales tax.

Subd. 4. **Repayment procedures.** (a) For the repayment of taxes imposed under chapter 290 or 297A or local taxes collected pursuant to section 297A.99, a business must file an amended return with the commissioner of revenue and pay any taxes required to be repaid within 30 days after ceasing to do business in the zone. The amount required to be repaid is determined by calculating the tax for the period or periods for which repayment is required without regard to the exemptions and credits allowed under section 469.336.

(b) For the repayment of property taxes, the county auditor shall prepare a tax statement for the business, applying the applicable tax extension rates for each payable year and provide a copy to the business. The business must pay the taxes to the county treasurer within 30 days after receipt of the tax statement. The taxpayer may appeal the valuation and determination of the property tax to the Tax Court within 30 days after receipt of the tax statement.

(c) The provisions of chapters 270 and 289A relating to the commissioner's authority to audit, assess, and collect the tax and to hear appeals are applicable to the repayment required under paragraph (a). The commissioner may impose civil penalties as provided in chapter 289A, and the additional tax and penalties are subject to interest at the rate provided in section 270.75, from 30 days after ceasing to do business in the biotechnology and health sciences industry zone until the date the tax is paid.

(d) If a property tax is not repaid under paragraph (b), the county treasurer shall add the amount required to be repaid to the property taxes assessed against the property for payment in the year following the year in which the treasurer discovers that the business ceased to operate in the biotechnology and health sciences industry zone.

(e) For determining the tax required to be repaid, a tax reduction is deemed to have been received on the date that the tax would have been due if the taxpayer had not been entitled to the exemption, or on the date a refund was issued for a refundable credit.

(f) The commissioner may assess the repayment of taxes under paragraph (c) any time within two years after the business ceases to operate in the biotechnology and health sciences industry zone, or within any period of limitations for the assessment of tax under section 289A.38, whichever period is later.

Subd. 5. **Waiver authority.** The commissioner may waive all or part of a repayment, if the commissioner, in consultation with the commissioner of employment and economic development and appropriate officials from the local government units in which the business is located, determines that requiring repayment of the tax is not in the best interest of the state or the local government units and the business ceased operating as a result of circumstances beyond its control including, but not limited to:

(1) a natural disaster;

(2) unforeseen industry trends; or

(3) loss of a major supplier or customer.

History: *1Sp2003 c 4 s 1; 1Sp2003 c 21 art 2 s 19*

469.341 ZONE PERFORMANCE; REMEDIES.

Subdivision 1. **Reporting requirement.** An applicant receiving designation of a biotechnology and health sciences industry zone under section 469.334 must annually report to the commissioner on its progress in meeting the zone performance goals under the development plan for the zone and the applicant's compliance with the business subsidy law under sections 116J.993 to 116J.995.

Subd. 2. **Procedures.** For reports required by subdivision 1, the commissioner may prescribe:

(1) the required time or times by which the reports must be filed;

(2) the form of the report; and

(3) the information required to be included in the report.

Subd. 3. **Remedies.** If the commissioner determines, based on a report filed under subdivision 1 or other available information, that a zone or subzone is failing to meet its performance goals, the commissioner may take any actions the commissioner determines appropriate, including modification of the boundaries of the zone or a subzone or termination of the zone or a subzone. Before taking any action, the commissioner shall consult with the applicant and the affected local government units, including notifying them of the proposed actions to be taken. The commissioner shall publish any order modifying a zone in the State Register and on the Internet. The applicant may appeal the commissioner's order under the contested case procedures of chapter 14.

Subd. 4. **Existing businesses.** (a) An action to remove area from a zone or to terminate a zone under this section does not apply to:

(1) the property tax on improvements constructed before the first January 2 following publication of the commissioner's order;

(2) sales tax on purchases made before the first day of the next calendar month beginning at least 30 days after publication of the commissioner's order; and

(3) individual income tax or corporate franchise tax attributable to a facility that was in operation before the publication of the commissioner's order.

(b) The tax exemptions specified in paragraph (a) terminate on the date on which the zone expires under the original designation.

History: *1Sp2003 c 21 art 2 s 20*