

CHAPTER 116J

DEPARTMENT OF EMPLOYMENT AND
ECONOMIC DEVELOPMENT

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116J.551 CREATION OF ACCOUNTS.

Subdivision 1. **Grant account.** A contaminated site cleanup and development grant account is created in the general fund. Money in the account may be used, as appropriated by law, to make grants as provided in section 116J.554 and to pay for the commissioner's costs in reviewing applications and making grants. Notwithstanding section 16A.28, money appropriated to the account is available for four years.

[For text of subd 2, see M.S.2004]

History: *1Sp2005 c 1 art 4 s 15*

116J.556 LOCAL MATCH REQUIREMENT.

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

History: *2005 c 152 art 2 s 1*

116J.571 CREATION OF ACCOUNTS.

Two redevelopment accounts are created, one in the general fund and one in the bond proceeds fund. Money in the accounts may be used to make grants as provided in section 116J.575 and to pay for the commissioner's costs in reviewing applications and making grants.

History: *1Sp2005 c 1 art 4 s 16*

116J.572 DEFINITIONS.

Subdivision 1. **Scope of application.** For purposes of sections 116J.571 to 116J.575, the terms in this section have the meanings given.

Subd. 2. **Development authority.** "Development authority" includes a statutory or home rule charter city, county, housing and redevelopment authority, economic development authority, or port authority.

Subd. 2a. **Metropolitan area.** "Metropolitan area" means the seven-county metropolitan area, as defined in section 473.121, subdivision 2.

Subd. 2b. **Municipality.** "Municipality" means the statutory or home rule charter city, town, or, in the case of unorganized territory, county in which the redevelopment is located.

Subd. 3. **Redevelopment costs or costs.** “Redevelopment costs” or “costs” means the costs of land acquisition, stabilizing unstable soils when infill is required, demolition, infrastructure improvements; and ponding or other environmental infrastructure and costs necessary for adaptive reuse of buildings, including remedial activities.

Subd. 4. [Repealed by amendment, 1Sp2005 c 1 art 4 s 17]

History: 1Sp2005 c 1 art 4 s 17

116J.573 [Repealed, 1Sp2005 c 1 art 4 s 124]

116J.574 GRANT APPLICATIONS.

Subdivision 1. **Application required.** To obtain a redevelopment grant, a development authority shall apply to the commissioner. The governing body of the municipality must approve the application by resolution.

Subd. 2. **Required content.** The commissioner shall prescribe and provide the application form. The application must include at least the following information:

- (1) identification of the site;
 - (2) a redevelopment plan for the site;
 - (3) a detailed estimate, along with necessary supporting evidence, of the total redevelopment costs for the site;
 - (4) an assessment of the development potential or likely use of the site after completion of the redevelopment plan, including any specific commitments from third parties to construct improvements on the site;
 - (5) the manner in which the municipality will meet the local match requirement;
- and
- (6) any additional information or material the commissioner prescribes.

History: 1Sp2005 c 1 art 4 s 18

116J.575 GRANTS.

Subdivision 1. **Commissioner discretion.** The commissioner may make a grant for up to 50 percent of the eligible costs of a project. The determination of whether to make a grant for a site is within the discretion of the commissioner, subject to this section and sections 116J.571 to 116J.574 and available unencumbered money in the redevelopment account. Notwithstanding section 116J.573, if the commissioner determines that the applications for grants for projects in greater Minnesota are less than the amount of grant funds available, the commissioner may make grants for projects anywhere in Minnesota. The commissioner’s decisions and application of the priorities under this section are not subject to judicial review, except for abuse of discretion.

Subd. 1a. **Priorities.** (a) If applications for grants exceed the available appropriations, grants shall be made for sites that, in the commissioner’s judgment, provide the highest return in public benefits for the public costs incurred. “Public benefits” include job creation, bioscience development, environmental benefits to the state and region, efficient use of public transportation, efficient use of existing infrastructure, provision of affordable housing, multiuse development that constitutes community rebuilding rather than single-use development, crime reduction, blight reduction, community stabilization, and property tax base maintenance or improvement. In making this judgment, the commissioner shall give priority to redevelopment projects with one or more of the following characteristics:

- (1) the need for redevelopment in conjunction with contamination remediation needs;
- (2) the redevelopment project meets current tax increment financing requirements for a redevelopment district and tax increments will contribute to the project;
- (3) the redevelopment potential within the municipality;
- (4) proximity to public transit if located in the metropolitan area; and

(5) multijurisdictional projects that take into account the need for affordable housing, transportation, and environmental impact.

(b) The factors in paragraph (a) are not listed in a rank order of priority; rather, the commissioner may weigh each factor, depending upon the facts and circumstances, as the commissioner considers appropriate.

Subd. 2. **Application cycles.** In making grants, the commissioner shall establish semiannual application deadlines in which grants will be authorized from all or part of the available money in the account.

Subd. 3. **Match required.** In order to qualify for a grant under sections 116J.571 to 116J.575, the municipality must pay for at least one-half of the redevelopment costs as a local match from any money available to the municipality.

History: 2005 c 20 art 1 s 33; 1Sp2005 c 1 art 4 s 19

116J.58 POWERS AND DUTIES.

[For text of subs 1 and 2, see M.S.2004]

Subd. 3. [Repealed, 1Sp2005 c 1 art 4 s 124]

116J.63 SALE OF PAMPHLETS AND PUBLICATIONS; FEES; ADVERTISING.

[For text of subd 1, see M.S.2004]

Subd. 2. **Fees.** (a) Fees for reports, publications, or related publicity or promotional material are not subject to the rulemaking requirements of chapter 14 and are not subject to section 16A.1285. The fees prescribed by the commissioner must be commensurate with the distribution objective of the department for the material produced or with the cost of furnishing the services. Except as described in paragraph (b), all fees for materials and services must be deposited in the general fund.

(b) The commissioner may sell marketing materials at cost to economic development organizations and others in quantities that would not otherwise be available through general fund appropriations. Funds received must be placed in a special revolving account and are appropriated to the commissioner to pay for the production of the materials.

[For text of subd 3, see M.S.2004]

History: 1Sp2005 c 1 art 4 s 20

116J.68 BUREAU OF SMALL BUSINESS.

[For text of subs 1 and 2, see M.S.2004]

Subd. 5. **Advisory board meetings.** (a) If compliance with section 13D.02 is impractical, the Small Business Development Center Advisory Board, created pursuant to United States Code, title 15, section 648, may conduct a meeting of its members by telephone or other electronic means so long as the following conditions are met:

(1) all members of the board participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;

(2) members of the public present at the regular meeting location of the board can hear clearly all discussion and testimony and all votes of members of the board and, if needed, receive those services required by sections 15.44 and 15.441;

(3) at least one member of the board is physically present at the regular meeting location; and

(4) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

(b) Each member of the board participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

(c) If telephone or other electronic means is used to conduct a meeting, the board, to the extent practical, shall allow a person to monitor the meeting electronically from a remote location. The board may require the person making such a connection to pay for documented marginal costs that the board incurs as a result of the additional connection.

(d) If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the board shall provide notice of the regular meeting location, of the fact that some members may participate by telephone or other electronic means, and of the provisions of paragraph (c). The timing and method of providing notice is governed by section 13D.04.

History: 2005 c 163 s 53

116J.871 FINANCIAL ASSISTANCE LIMITATIONS; PREVAILING WAGE.

[For text of subs 1 and 2, see M.S.2004]

Subd. 3. **Prevailing wage; penalty.** It is a misdemeanor for a person who has certified that prevailing wages will be paid to laborers and mechanics under subdivision 2 to subsequently fail to pay the prevailing wage. Each day a violation of this subdivision continues is a separate offense.

[For text of subs 4 and 5, see M.S.2004]

History: 2005 c 10 art 3 s 5

116J.8731 MINNESOTA INVESTMENT FUND.

[For text of subs 1 to 4, see M.S.2004]

Subd. 5. **Grant limits.** A Minnesota investment fund grant may not be approved for an amount in excess of \$1,000,000. This limit covers all money paid to complete the same project, whether paid to one or more grant recipients and whether paid in one or more fiscal years. A local community or recognized Indian tribal government may retain 20 percent, but not more than \$100,000 of a Minnesota investment fund grant when it is repaid to the local community or recognized Indian tribal government by the person or entity to which it was loaned by the local community or Indian tribal government. Money repaid to the state must be credited to a Minnesota investment revolving loan account in the state treasury. Funds in the account are appropriated to the commissioner and must be used in the same manner as are funds appropriated to the Minnesota investment fund. Funds repaid to the state through existing Minnesota investment fund agreements must be credited to the Minnesota investment revolving loan account effective July 1, 2005. A grant or loan may not be made to a person or entity for the operation or expansion of a casino or a store which is used solely or principally for retail sales. Persons or entities receiving grants or loans must pay each employee total compensation, including benefits not mandated by law, that on an annualized basis is equal to at least 110 percent of the federal poverty level for a family of four.

[For text of subs 6 and 7, see M.S.2004]

History: 1Sp2005 c 1 art 4 s 21

116J.8747 JOB TRAINING PROGRAM GRANT.

[For text of subd 1, see M.S.2004]

Subd. 2. **Qualified job training program.** To qualify for grants under this section, a job training program must satisfy the following requirements:

- (1) the program must be operated by a nonprofit corporation that qualifies under section 501(c)(3) of the Internal Revenue Code;
- (2) the program must spend at least \$15,000 per graduate of the program;
- (3) the program must provide education and training in:

- (i) basic skills, such as reading, writing, mathematics, and communications;
- (ii) thinking skills, such as reasoning, creative thinking, decision making, and problem solving; and
- (iii) personal qualities, such as responsibility, self-esteem, self-management, honesty, and integrity;
- (4) the program must provide income supplements, when needed, to participants for housing, counseling, tuition, and other basic needs;
- (5) the program's education and training course must last for an average of at least six months;
- (6) individuals served by the program must:
 - (i) be 18 years of age or older;
 - (ii) have federal adjusted gross income of no more than \$11,000 per year in the calendar year immediately before entering the program;
 - (iii) have assets of no more than \$7,000, excluding the value of a homestead; and
 - (iv) not have been claimed as a dependent on the federal tax return of another person in the previous taxable year; and
- (7) the program must be certified by the commissioner of employment and economic development as meeting the requirements of this subdivision.

[For text of subds 3 and 4, see M.S.2004]

History: *1Sp2005 c 1 art 4 s 22*

116J.993 DEFINITIONS.

[For text of subds 1 to 6, see M.S.2004]

Subd. 6a. **Residence.** "Residence" means the place where an individual has established a permanent home from which the individual has no present intention of moving.

[For text of subd 7, see M.S.2004]

History: *1Sp2005 c 3 art 7 s 1*

116J.994 REGULATING LOCAL AND STATE BUSINESS SUBSIDIES.

[For text of subds 1 to 3, see M.S.2004]

Subd. 4. **Wage and job goals.** The subsidy agreement, in addition to any other goals, must include: (1) goals for the number of jobs created, which may include separate goals for the number of part-time or full-time jobs, or, in cases where job loss is specific and demonstrable, goals for the number of jobs retained; (2) wage goals for any jobs created or retained; and (3) wage goals for any jobs to be enhanced through increased wages. After a public hearing, if the creation or retention of jobs is determined not to be a goal, the wage and job goals may be set at zero. The goals for the number of jobs to be created or retained must result in job creation or retention by the recipient within the granting jurisdiction overall.

In addition to other specific goal time frames, the wage and job goals must contain specific goals to be attained within two years of the benefit date.

Subd. 5. **Public notice and hearing.** (a) Before granting a business subsidy that exceeds \$500,000 for a state government grantor and \$100,000 for a local government grantor, the grantor must provide public notice and a hearing on the subsidy. A public hearing and notice under this subdivision is not required if a hearing and notice on the subsidy is otherwise required by law.

(b) Public notice of a proposed business subsidy under this subdivision by a state government grantor, other than the Iron Range Resources and Rehabilitation Board, must be published in the State Register. Public notice of a proposed business subsidy under this subdivision by a local government grantor or the Iron Range Resources and

Rehabilitation Board must be published in a local newspaper of general circulation. The public notice must identify the location at which information about the business subsidy, including a summary of the terms of the subsidy, is available. Published notice should be sufficiently conspicuous in size and placement to distinguish the notice from the surrounding text. The grantor must make the information available in printed paper copies and, if possible, on the Internet. The government agency must provide at least a ten-day notice for the public hearing.

(c) The public notice must include the date, time, and place of the hearing.

(d) The public hearing by a state government grantor other than the Iron Range Resources and Rehabilitation Board must be held in St. Paul.

(e) If more than one nonstate grantor provides a business subsidy to the same recipient, the nonstate grantors may designate one nonstate grantor to hold a single public hearing regarding the business subsidies provided by all nonstate grantors. For the purposes of this paragraph, "nonstate grantor" includes the iron range resources and rehabilitation board.

(f) The public notice of any public meeting about a business subsidy agreement, including those required by this subdivision and by subdivision 4, must include notice that a person with residence in or the owner of taxable property in the granting jurisdiction may file a written complaint with the grantor if the grantor fails to comply with sections 116J.993 to 116J.995, and that no action may be filed against the grantor for the failure to comply unless a written complaint is filed.

[For text of subd 6, see M.S.2004]

Subd. 7. Reports by recipients to grantors. (a) A business subsidy grantor must monitor the progress by the recipient in achieving agreement goals.

(b) A recipient must provide information regarding goals and results for two years after the benefit date or until the goals are met, whichever is later. If the goals are not met, the recipient must continue to provide information on the subsidy until the subsidy is repaid. The information must be filed on forms developed by the commissioner in cooperation with representatives of local government. Copies of the completed forms must be sent to the local government agency that provided the subsidy or to the commissioner if the grantor is a state agency. If the Iron Range Resources and Rehabilitation Board is the grantor, the copies must be sent to the board. The report must include:

(1) the type, public purpose, and amount of subsidies and type of district, if the subsidy is tax increment financing;

(2) the hourly wage of each job created with separate bands of wages;

(3) the sum of the hourly wages and cost of health insurance provided by the employer with separate bands of wages;

(4) the date the job and wage goals will be reached;

(5) a statement of goals identified in the subsidy agreement and an update on achievement of those goals;

(6) the location of the recipient prior to receiving the business subsidy;

(7) the number of employees who ceased to be employed by the recipient when the recipient relocated to become eligible for the business subsidy;

(8) why the recipient did not complete the project outlined in the subsidy agreement at their previous location, if the recipient was previously located at another site in Minnesota;

(9) the name and address of the parent corporation of the recipient, if any;

(10) a list of all financial assistance by all grantors for the project; and

(11) other information the commissioner may request.

A report must be filed no later than March 1 of each year for the previous year. The local agency and the Iron Range Resources and Rehabilitation Board must forward copies of the reports received by recipients to the commissioner by April 1.

(c) Financial assistance that is excluded from the definition of "business subsidy" by section 116J.993, subdivision 3, clauses (4), (5), (8), and (16), is subject to the reporting requirements of this subdivision, except that the report of the recipient must include instead:

- (1) the type, public purpose, and amount of the financial assistance, and type of district if the assistance is tax increment financing;
 - (2) progress towards meeting goals stated in the assistance agreement and the public purpose of the assistance;
 - (3) if the agreement includes job creation, the hourly wage of each job created with separate bands of wages;
 - (4) if the agreement includes job creation, the sum of the hourly wages and cost of health insurance provided by the employer with separate bands of wages;
 - (5) the location of the recipient prior to receiving the assistance; and
 - (6) other information the grantor requests.
- (d) If the recipient does not submit its report, the local government agency must mail the recipient a warning within one week of the required filing date. If, after 14 days of the postmarked date of the warning, the recipient fails to provide a report, the recipient must pay to the grantor a penalty of \$100 for each subsequent day until the report is filed. The maximum penalty shall not exceed \$1,000.

[For text of subd 8, see M.S.2004]

Subd. 9. Compilation and summary report. The Department of Employment and Economic Development must publish a compilation and summary of the results of the reports for the previous two calendar years by December 1 of 2004 and every other year thereafter. The reports of the government agencies to the department and the compilation and summary report of the department must be made available to the public. The commissioner must make copies of all business subsidy reports submitted by local and state granting agencies available on the department's Web site by October 1 of the year in which they were submitted.

The commissioner must coordinate the production of reports so that useful comparisons across time periods and across grantors can be made. The commissioner may add other information to the report as the commissioner deems necessary to evaluate business subsidies. Among the information in the summary and compilation report, the commissioner must include:

- (1) total amount of subsidies awarded in each development region of the state;
- (2) distribution of business subsidy amounts by size of the business subsidy;
- (3) distribution of business subsidy amounts by time category;
- (4) distribution of subsidies by type and by public purpose;
- (5) percent of all business subsidies that reached their goals;
- (6) percent of business subsidies that did not reach their goals by two years from the benefit date;
- (7) total dollar amount of business subsidies that did not meet their goals after two years from the benefit date;
- (8) percent of subsidies that did not meet their goals and that did not receive repayment;
- (9) list of recipients that have failed to meet the terms of a subsidy agreement in the past five years and have not satisfied their repayment obligations;
- (10) number of part-time and full-time jobs within separate bands of wages for the entire state and for each development region of the state;
- (11) benefits paid within separate bands of wages for the entire state and for each development region of the state; and
- (12) number of employees in the entire state and in each development region of the state who ceased to be employed because their employers relocated to become eligible for a business subsidy.

[For text of subd 10, see M.S.2004]

Subd. 11. **Enforcement.** (a) A person with residence in or an owner of taxable property located in the jurisdiction of the grantor may bring an action for equitable relief arising out of the failure of the grantor to comply with sections 116J.993 to 116J.995. The court may award a prevailing party in an action under this subdivision costs and reasonable attorney fees.

(b) Prior to bringing an action, the party must file a written complaint with the grantor stating the alleged violation and proposing a remedy. The grantor has up to 30 days to reply to the complaint in writing and may take action to comply with sections 116J.993 to 116J.995.

(c) The written complaint under this subdivision for failure to comply with subdivisions 1 to 5, must be filed with the grantor within 180 days after approval of the subsidy agreement under subdivision 3, paragraph (d). An action under this subdivision must be commenced within 30 days following receipt of the grantor's reply, or within 180 days after approval of the subsidy agreement under subdivision 3, paragraph (d), whichever is later.

History: *1Sp2005 c 1 art 4 s 23,24; 1Sp2005 c 3 art 7 s 2-5*