

469.170 TAX CLASSIFICATION OF EMPLOYMENT PROPERTY.

Subdivision 1. **Municipal applications.** The governing body of any municipality that contains an enterprise zone designated under section 469.167 shall by resolution establish a program for classification of new property or improvements to existing property as employment property pursuant to the provisions of this section. Applications for classification under the program shall be filed with the municipal clerk or auditor in a form prescribed by the commissioner of revenue, with additions as prescribed by the governing body. The application shall contain, where appropriate, a legal description of the parcel of land on which the facility is to be situated or improved; a general description of the facility or improvement and its proposed use; the probable time schedule for undertaking any construction or improvement; and information regarding the findings required in subdivision 4; the market value and the net tax capacity of the land and of all other taxable property then situated on it, according to the most recent assessment; and, if the property is to be improved or expanded, an estimate of the probable cost of the new construction or improvement and the market value of the new or improved facility (excluding land) when completed.

Subd. 2. **Hearing.** Upon receipt of an application the municipal clerk or auditor, subject to any prior approval required by the resolution establishing the program, shall furnish a copy to the assessor for the property and to the governing body of each school district and other public body authorized to levy taxes on the property. The municipal clerk or auditor shall publish a notice in the official newspaper of the time and place of a hearing to be held by the governing body on the application, not less than 30 days after the notice is published. The notice shall state that the applicant, the assessor, representatives of the affected taxing authorities, and any taxpayer of the municipality may be heard or may present their views in writing at or before the hearing. The hearing may be adjourned from time to time, but the governing body shall take action on the application by resolution within 30 days after the hearing ends. If disapproved, the reasons shall be set forth in the resolution. The applicant may appeal to the commissioner of revenue within 30 days thereafter, but only on the ground that the determination is arbitrary, in relation to prior determinations as to classification under the program, or based upon a mistake of law. If approved, the resolution shall include determinations as to the findings required in subdivision 4, and the clerk or auditor shall transmit it to the commissioner.

Subd. 3. **Commissioner's action.** Within 60 days after receipt of an approved application or an appeal from the disapproval of an application, the commissioner of revenue shall take action on it. The commissioner of revenue shall approve each application approved by the governing body on finding that it complies with the provisions of this section. On disapproving the application, or finding that grounds exist for appeal of a disapproved application, the commissioner shall

transmit the finding to the governing body and the applicant. When grounds for appeal have been determined to exist, the governing body shall reconsider and take further action on the application within 30 days after receipt of the commissioner's notice and serve written notice of the action upon the applicant. The applicant, within 30 days after receipt of notice of final disapproval by the commissioner of revenue or the governing body, may appeal from the disapproval to a court of competent jurisdiction.

Subd. 4. **Hardship area zone criteria.** In the case of hardship area zones, an application shall not be approved unless the governing body finds that the construction or improvement of the facility:

(1) is reasonably likely to create new employment or prevent a loss of employment in the municipality;

(2) is not likely to have the effect of transferring existing employment from one or more other municipalities within the state;

(3) is not likely to cause the total market value of employment property within the municipality to exceed five percent of the total market value of all taxable property within the municipality; or, if it will, considering the amount of additional municipal services likely to be required for the employment property, is not likely to substantially impede the operation or the financial integrity of the municipality or any other public body levying taxes on property in the municipality; and

(4) will not result in the reduction of the net tax capacity of existing property within the municipality owned by the applicant, through abandonment, demolition, or otherwise, without provision for the restoration of the existing property within a reasonable time in a manner sufficient to restore the net tax capacity.

Subd. 5. **Border city zone criteria.** In the case of border city zones, an application for assessment as employment property under section 273.13, subdivision 24, paragraph (b), or for a tax reduction pursuant to section 469.171, subdivision 1, may not be approved unless the governing body finds that the construction or improvement of the facility is not likely to have the effect of transferring existing employment from one or more other municipalities within the state.

Subd. 5a. **Plans: businesses with no previous credits.** All participating enterprise zone municipalities must submit, with each application from businesses that previously have not received enterprise zone credits, a written multiyear enterprise zone tax credit distribution plan. The plan must set forth: (1) the maximum amount of credits to be drawn over the five year allowable period; and (2) the maximum amount of state tax credits to be drawn each of those five years, and whether the form will be in tax credits or refunds.

Subd. 5b. **Plans: previously approved businesses.** Within 90 days of final enactment of this act, all participating enterprise zone municipalities, except those containing an enterprise zone designated under section 469.168, subdivision 4, paragraph (c), other than a zone in the city of the first class, must submit a written multiyear enterprise zone tax credit distribution plan. The plan must specify the maximum amounts of state tax credits previously approved business applicants are eligible to receive in each of the remaining years for which credits have been authorized. The commissioner may only approve requests for state tax credits from a business that meets the requirements established in sections 469.166 to 469.173. The commissioner shall not approve any request for state tax credits from a business that exceeds the amount set forth in an enterprise zone municipality's multiyear enterprise zone tax credit distribution plan for that business entity for that year.

Subd. 5c. **Border city credit plans.** Border city enterprise zones designated under section 469.168, subdivision 4, paragraph (c), that are not located in cities of the first class shall, within 90 days of final enactment of this act, submit a written multiyear enterprise zone tax distribution plan. The plan must specify the maximum aggregate amount of tax credits all previously approved business applicants are eligible to receive in each of the remaining years for which credits have been authorized. The commissioner may only approve requests for state tax credits for a business that meets the requirements established in sections 469.166 to 469.173.

Subd. 5d. **Amendment of plans.** A written multiyear enterprise zone tax credit distribution plan submitted under subdivision 5a, 5b, or 5c, may be amended, provided that an initial amendment may be made no sooner than two years from the date of submission of the original plan, and subsequent amendments may be made no sooner than two years after the most recent prior amendment.

Subd. 5e. **Limits on multiyear plans.** The requirements for a multiyear enterprise zone tax credit distribution plan under subdivisions 5a to 5d apply only for:

- (1) each business that will receive more than \$25,000 in credits in a year; or
- (2) tax reductions under section 469.171, subdivision 1, for businesses in areas designated under section 469.171, subdivision 5.

Subd. 6. **Classification.** Property shall be classified as employment property and assessed as provided for class 3b property in section 273.13, subdivision 24, paragraph (b), for taxes levied in the year in which the classification is approved and for the four succeeding years after the approval. If the classification is revoked, the revocation is effective for taxes levied in the next year after revocation.

Subd. 7. **Revocation.** The governing body may request the commissioner of revenue to approve the revocation of a classification pursuant to this section if it finds by resolution that:

(1) the construction or improvement of the facility has not been completed within two years after the approval of the classification, or any longer period that may have been allowed in the approving resolution or may be necessary due to circumstances not reasonably within the control of the applicant; or

(2) the applicant has not proceeded in good faith with the construction or improvement of the facility, or with its operation, in a manner which is consistent with the purpose of this section and is possible under circumstances reasonably within the control of the applicant.

The findings may be made only after a hearing held upon notice mailed to the applicant by certified mail at least 60 days before the hearing.

Subd. 8. **Hearing.** Upon receipt of the request for revocation, the commissioner of revenue shall notify the applicant and the governing body of a time and place at which the applicant may be heard. The hearing must be held within 30 days after receipt of the request. Within 30 days after the hearing, the commissioner of revenue shall determine whether the facts and circumstances are grounds for revocation as recommended by the governing body. If the commissioner of revenue revokes the classification, the applicant may appeal from the order to a court of competent jurisdiction at any time within 30 days after revocation.

Subd. 9. [Repealed, 1995 c 186 s 81]

History: 1987 c 268 art 6 s 24; art 10 s 2; 1987 c 291 s 171,243; 1988 c 719 art 5 s 84; art 19 s 23; 1989 c 329 art 13 s 20; 1998 c 389 art 12 s 4