

## CHAPTER 116O

### ENTERPRISE MINNESOTA, INC.

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#### 116O.01 CITATION.

Sections 116O.01 to 116O.061 may be cited as the "Enterprise Minnesota, Inc. Act."

**History:** 1987 c 386 art 2 s 1; 1991 c 322 s 19; 2008 c 290 s 1

#### 116O.011 NAME CHANGE.

Minnesota Technology, Inc., formerly known as the Greater Minnesota Corporation, is renamed Enterprise Minnesota, Inc.

**History:** 1991 c 322 s 1; 2008 c 290 s 2

#### 116O.02 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections 116O.01 to 116O.15.

Subd. 1a. **Account.** "Account" means the Minnesota technology account.

Subd. 2. **Board.** "Board" means the board of directors of Enterprise Minnesota, Inc.

Subd. 3. **Corporation.** "Corporation" means Enterprise Minnesota, Inc.

Subd. 4. [Renumbered subd 1a]

Subd. 5. **Greater Minnesota.** "Greater Minnesota" means the area of Minnesota located outside of the metropolitan area as defined in section 473.121, subdivision 2.

Subd. 6. **Technology-related assistance.** "Technology-related assistance" means the application and utilization of technological information and technologies to assist in the development and production of new technology-related products or services or to increase the productivity or otherwise enhance the production or delivery of existing products or services. "Technology-related assistance" includes assistance in utilizing and developing processes and products that conserve energy.

**History:** 1987 c 386 art 2 s 2; 1989 c 335 art 1 s 168; art 4 s 106; 1991 c 322 s 19; 1993 c 163 art 2 s 2; 2008 c 290 s 2,3

#### 116O.03 CORPORATION; BOARD OF DIRECTORS; POWERS.

Subdivision 1. **Establishment.** Enterprise Minnesota, Inc. is established as a public corporation of the state and is not subject to the laws governing a state agency except as provided in this chapter. The business of the corporation must be conducted under the name "Enterprise Minnesota, Inc."

Subd. 1a. **Purpose.** The purpose of the corporation is to foster long-term economic growth and job creation by stimulating innovation and the development of new products, services, and production processes through energy conservation, technology application and utilization, and financial assistance. The corporation's purpose is not to create new programs or services but to build on the existing educational, business, and economic development infrastructure. The primary focus of the corporation's activities must be to benefit new or existing small and medium-sized businesses in greater Minnesota.

Subd. 2. **Board of directors.** The corporation is governed by a board of directors. The selection, membership terms, compensation, removal, and filling of vacancies of members of the board are as provided in the corporation's bylaws.

Subd. 2a. [Repealed, 1991 c 322 s 20]

Subd. 3. **Bylaws.** The board of directors shall adopt bylaws necessary for the conduct of the business of the corporation, consistent with this chapter. The corporation must publish the bylaws and amendments to the bylaws in the State Register.

Subd. 4. **Places of business.** The board shall locate and maintain the corporation's places of business within the state.

Subd. 5. **Meetings and actions of the board.** The board shall meet at least twice a year and may hold additional meetings upon giving notice in accordance with the bylaws of the corporation. Board meetings are subject to chapter 13D, except when data described in subdivision 7 is discussed.

Subd. 6. **Closed meetings; recording.** The board of directors may by a majority vote in a public meeting decide to hold a closed meeting authorized under subdivision 5. The time and place of the closed meeting must be announced at the public meeting. A written roll of members present at the closed meeting must be made available to the public after the closed meeting. The proceedings of a closed meeting must be tape recorded at the expense of the board and must be preserved by the board for two years. The data on the tape is nonpublic data under section 13.02, subdivision 9.

Subd. 7. **Application and investigative data.** The following data is classified as private data with regard to data on individuals under section 13.02, subdivision 12, or as nonpublic data with regard to data not on individuals under section 13.02, subdivision 9, whichever is applicable:

(1) financial data, statistics, and information furnished in connection with assistance or proposed assistance under section 116O.061, including credit reports, financial statements, statements of net worth, income tax returns, either personal or corporate, and any other business and personal financial records; or

(2) security information, trade secret information, or labor relations information, as defined in section 13.37, subdivision 1, disclosed to members of the corporation board or employees of the corporation under section 116O.061.

Subd. 8. **Conflict of interest.** A director, employee, or officer of the corporation may not participate in or vote on a decision of the board relating to an organization in which the director has either a direct or indirect financial interest.

Subd. 9. **Contributions to public officials; disclosure.** Each director shall file a statement with the Campaign Finance and Public Disclosure Board disclosing the nature, amount, date, and recipient of any contribution made to a public official, political committee, political fund, or political party, as defined in chapter 10A, that:

- (1) was made within the four years preceding appointment to the Enterprise Minnesota, Inc. board; and
- (2) was subject to the reporting requirements of chapter 10A.

The statement must be updated annually during the director's term to reflect contributions made to public officials during the appointed director's tenure.

Subd. 10. **Tort claims.** The corporation is a state agency for purposes of section 3.736.

Subd. 11. **Statements of economic interest.** Directors and officers of the corporation are public officials for the purpose of section 10A.09, and must file statements of economic interest with the Campaign Finance and Public Disclosure Board.

**History:** 1987 c 386 art 2 s 3; 1988 c 686 art 1 s 66; 1988 c 708 s 2; 1989 c 335 art 1 s 169,170,177; art 4 s 55,56; 1990 c 423 s 5; 1991 c 322 s 2,19; 1993 c 163 art 2 s 3; 1997 c 202 art 2 s 63; 1998 c 270 s 3; 1999 c 250 art 1 s 114; 2003 c 128 art 15 s 3; 2008 c 290 s 2,4,5

### 116O.04 CORPORATE PERSONNEL.

Subdivision 1. **Generally.** The board shall appoint and set the compensation for a president, who serves as chief executive officer of the corporation, and who may appoint subordinate officers. The board may designate the president as its general agent. Subject to the control of the board, the president shall employ employees, consultants, and agents the president considers necessary. The staff of the corporation must include individuals with operational experience and knowledgeable in commercial and industrial financing, energy conservation, research and development, economic development, and general fiscal affairs. The board shall define the duties and designate the titles of the employees and agents.

Subd. 2. **Status of employees.** Employees, officers, and directors of the corporation and programs governed by this chapter are not state employees, but are covered by section 3.736 and, at the option of the board, may participate in the state retirement plan and the state deferred compensation plan for employees in the unclassified service and an insurance plan administered by the commissioner of management and budget.

Subd. 3. **Contributions to public officials; disclosure.** The president shall file a statement with the Campaign Finance and Public Disclosure Board disclosing the nature, amount, date, and recipient of any contribution made to a public official which:

- (1) was made within the four years preceding employment with the Enterprise Minnesota, Inc. board; and
- (2) was subject to the reporting requirements of chapter 10A.

The statement must be updated annually during the president's employment to reflect contributions made to public officials during the president's tenure.

Subd. 4. **Personnel policies.** (a) The corporation must adopt and periodically revise, if necessary, an affirmative action plan similar to the affirmative action plan under section 43A.19, subdivision 1. The corporation is subject to the audit and reporting requirements under section 43A.191, subdivision 3.

(b) Employees of the corporation are subject to the prohibition of political activities and required leave of absences under section 43A.32.

(c) Employees of the corporation are subject to the code of ethics requirements under section 43A.38.

**History:** 1987 c 386 art 2 s 4; 1988 c 686 art 1 s 67; 1988 c 708 s 3; 1989 c 335 art 4 s 57; 1991 c 322 s 3,19; 1993 c 163 art 2 s 4; 1994 c 554 s 1; 1997 c 202 art 2 s 63; 2008 c 204 s 42; 2008 c 290 s 2,6,7; 2009 c 101 art 2 s 109

#### **116O.05 POWERS OF CORPORATION.**

Subdivision 1. **General corporate powers.** (a) The corporation has the powers granted to a business corporation by section 302A.161, subdivisions 3; 4; 5; 7; 8; 9; 11; 12; 13, except that the corporation may not act as a general partner in any partnership; 14; 15; 16; 17; 18; and 22.

(b) The state is not liable for the obligations of the corporation.

(c) Section 302A.041 applies to this chapter and the corporation in the same manner that it applies to business corporations established under chapter 302A.

Subd. 2. **Duties.** (a) The primary duties of the corporation shall include:

(1) development of new products and processes for operational efficiency and excellence, enabling company growth; and

(2) business development services with technology utilization and application, primarily for small and medium-sized manufacturers.

(b) The corporation shall also:

(1) provide or provide for technology-related assistance to individuals, sole proprietorships, partnerships, corporations, other business entities, and nonprofit organizations; and

(2) not duplicate existing services or activities provided by other public and private organizations but shall build on the existing educational, business, and economic development infrastructure.

Subd. 3. **Rules.** The corporation must publish in the State Register any guidelines, policies, or eligibility criteria prepared or adopted by the corporation for any of its financial or technology transfer programs.

Subd. 4. **Supporting organizations.** On making a determination that the public policies and purposes of this chapter will be carried out to a greater extent than what might otherwise occur, the board may cause to be created and may delegate, assign, or transfer to one or more entities, including without limitation a corporation, nonprofit corporation, limited liability company, partnership, or limited partnership, any or all rights and duties, assets and liabilities, powers or authority created, authorized, or allowed under this chapter, except to the extent specifically limited by the Constitution or by law.

**History:** 1987 c 386 art 2 s 5; 1989 c 335 art 1 s 171; art 4 s 58; 1991 c 322 s 4; 1993 c 163 art 2 s 5; 1997 c 187 art 3 s 24; 1997 c 200 art 1 s 61; 2008 c 290 s 8-10

**116O.06** [Repealed, 2008 c 290 s 14]

#### **116O.061 FINANCIAL ASSISTANCE.**

(a) Financial assistance may be provided to sole proprietorships, corporations, other entities, or nonprofit organizations. Financial assistance includes, but is not limited to, assisting a qualified company or organization with business services and products that will enhance the operations of the entity.

(b) Preference and priority will be given to business entities that are expanding their operations in Minnesota. Priority will be assigned to:

- (1) projects whose return, in economic benefits, are most substantial and clear;
- (2) projects whose outcomes are best accelerated through internal resources of the corporation; and
- (3) companies and organizations not typically able to leverage external assistance.

(c) The corporation may enter into agreements with, or solicit grants from, other organizations to jointly promote:

- (1) business improvements;
- (2) the application of technology, energy conservation, new product development, and other initiatives leading to economic development; and
- (3) job creation.

**History:** 2008 c 290 s 11

**116O.07** [Repealed, 2008 c 290 s 14]

**116O.071** [Repealed, 2008 c 290 s 14]

**116O.072** [Repealed, 2008 c 290 s 14]

**116O.08** [Repealed, 2008 c 290 s 14]

**116O.09** MS 2006 [Renumbered 116V.01]

**116O.091** Subdivision 1. [Repealed, 2008 c 290 s 14]

Subd. 2. [Repealed by amendment, 1993 c 363 s 4]

Subd. 3. [Repealed by amendment, 1993 c 363 s 4]

Subd. 4. [Repealed, 2008 c 290 s 14]

Subd. 5. [Repealed, 2008 c 290 s 14]

Subd. 6. [Repealed, 2008 c 290 s 14]

Subd. 7. [Repealed, 2007 c 13 art 2 s 8; 2007 c 133 art 2 s 13]

Subd. 8. [Repealed by amendment, 1993 c 363 s 4]

Subd. 9. [Repealed by amendment, 1993 c 363 s 4]

**116O.092** [Repealed, 1993 c 363 s 8]

**116O.10** [Repealed, 2008 c 290 s 14]

**116O.11** [Repealed, 2008 c 290 s 14]

**116O.115 SMALL BUSINESS GROWTH ACCELERATION PROGRAM.**

Subdivision 1. **Establishment; purpose.** The small business growth acceleration program is established. The purpose of the program is to (1) help qualified companies implement technology and business improvements; and (2) bridge the gap between standard market pricing for technology and business improvements and what qualified companies can afford to pay.

Subd. 2. **Qualified company.** A company is qualified to receive assistance under the small business growth acceleration program if the company is a manufacturing company or a manufacturing-related service company that employs 250 or fewer full-time equivalent employees.

Subd. 3. **Applications for assistance.** A company seeking assistance under the small business growth acceleration program must file an application according to the requirements of the corporation. A company's application for small business growth acceleration program assistance must include documentation of the company's overall plan for technology and business improvement and prioritize the components of the overall plan. The application must also document the company's need for small business growth acceleration program funds in order to carry forward the highest priority components of the plan.

Subd. 4. **Fund awards; use of funds.** (a) The corporation shall establish procedures for determining which applicants for assistance under the small business growth acceleration program will receive program funding. Funding shall be awarded only to accelerate a qualified company's adoption of needed technology or business improvements when the corporation concludes that it is unlikely the improvements could be accomplished in any other way.

(b) The maximum amount of funds awarded to a qualified company under the small business growth acceleration program for a particular project must not exceed 75 percent of the total cost of a project and must not under any circumstances exceed \$25,000 during a calendar year. The corporation shall not award to a qualified company small business growth acceleration program funds in excess of \$50,000 per year.

(c) Any funds awarded to a qualified company under the small business growth acceleration program must be used for business services and products that will enhance the operation of the company. These business services and products must come either directly from the corporation or from a network of expert providers identified and approved by the corporation. No company receiving small business growth acceleration program funds may use the funds for refinancing, overhead costs, new construction, renovation, equipment, or computer hardware.

(d) Any funds awarded must be disbursed to the qualified company as reimbursement documented according to requirements of the corporation.

(e) Receipt of funds from an award under this section is contingent upon a contribution of funds by the qualified company to the project, as follows:

(1) a company with under 50 employees must contribute one dollar for every three dollars of program assistance awarded;

(2) a company with 50 to 100 employees must contribute one dollar for every one dollar of program assistance awarded; and

(3) a company with 101 to 250 employees must contribute three dollars for every one dollar of program assistance awarded.

Subd. 5. **Service agreements.** The corporation shall enter a written service agreement with each company awarded funds under the small business growth acceleration program. Each service agreement shall clearly articulate the company's need for service, state the cost of the service, identify who will provide the service, and define the scope of the service that will be provided. The service agreement must also include an estimate of the financial impact of the service on the company and require the company to report the actual financial impact of the service to the corporation 24 months after the service is provided.

Subd. 6. **Reporting.** The corporation shall report annually to the legislative committees with fiscal jurisdiction over the Department of Employment and Economic Development:

- (1) the funds awarded under the small business growth acceleration program during the past 12 months;
- (2) the estimated financial impact of the funds awarded to each company receiving service under the program; and
- (3) the actual financial impact of funds awarded during the past 24 months.

**History:** 2007 c 135 art 2 s 18; 2009 c 78 art 2 s 28,29

**116O.12** [Repealed, 2008 c 290 s 14]

**116O.122** [Repealed, 2008 c 290 s 14]

**116O.13** MS 2006 [Renumbered 116V.02]

#### **116O.14 AUDITS.**

The corporation board shall contract with a certified public accounting firm to do a financial and compliance audit of the corporation and any subsidiary annually in accordance with generally accepted accounting standards. A copy of this audit must be submitted to the chairs of the senate Finance and Economic Development and Housing Committees, and the house of representatives Appropriations and Economic Development Committees.

The corporation is subject to the auditing requirements under sections 3.971 and 3.972.

**History:** 1987 c 386 art 2 s 14; 1989 c 335 art 1 s 175

#### **116O.15 ANNUAL REPORT.**

The board shall submit a report to the chairs of the senate Economic Development and Housing and the house of representatives Economic Development Committees of the legislature and the governor on the activities of the corporation by February 1 of each year. A copy of the report shall also be provided to the president of the University of Minnesota. The report must include at least the following:

- (1) a description of each of the programs that the corporation has provided or undertaken at some time during the previous year. The description of each program must describe (i) the statement of purpose for the program, (ii) the administration of the program including the activities the corporation was responsible for and the responsibilities that other organizations had in administering the program, (iii) the results of the program including how the results were measured, (iv) the expenses of the program paid by the corporation, and (v) the source of corporate and noncorporate funding for the program;
- (2) an identification of the sources of funding in the previous year for the corporation and its programs including federal, state and local government, foundations, gifts, donations, fees, and all other sources;

(3) a description of the distribution of all money spent by the corporation in the previous year including an identification of the total expenditures, other than corporate administrative expenditures, by sector of the economy;

(4) a description of the administrative expenses of the corporation during the previous year;

(5) a listing of the assets and liabilities of the corporation at the end of the previous fiscal year;

(6) a list and description of each grant awarded by the corporation during the previous year;

(7) a description of any changes made to the operational plan during the previous year; and

(8) a description of any newly adopted or significant changes to bylaws, programmatic or administrative guidelines, policies, rules, or eligibility criteria for programs created or administered by the corporation during the previous year.

Reports must be made to the legislature as required by section 3.195.

**History:** 1987 c 386 art 2 s 15; 1989 c 335 art 1 s 176; 1993 c 363 s 5

#### **116O.20 DISSOLUTION.**

In the event of dissolution of Enterprise Minnesota, Inc. for any reason, the state of Minnesota, upon action by the governor, and after consultation with the Legislative Advisory Commission, may require the liquidation of all holdings and investments and the return of the proceeds of that liquidation and any wholly owned assets of the corporation to the state, in exchange for the assumption of all outstanding obligations of the corporation.

If the corporation is dissolved, or certain of its functions transferred to another entity, the assets and liabilities and property associated with the dissolved or transferred functions must return to the state or to the entity designated by laws.

**History:** 1987 c 386 art 2 s 20; 1991 c 322 s 19; 2008 c 290 s 2