

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 692

02/18/2013 Authored by Lenczewski

The bill was read for the first time and referred to the Committee on Government Operations

03/14/2013 Adoption of Report: Pass and Read Second Time

A bill for an act

relating to special assessments; defining unimproved property for purposes of
deferments; reorganizing provisions relating to the assessment hearing; making
conforming amendments; amending Minnesota Statutes 2012, sections 273.111,
subdivisions 3, 11; 273.114, subdivision 8; 429.061, subdivisions 1, 2, by adding
subdivisions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2012, section 273.111, subdivision 3, is amended to read:

Subd. 3. **Requirements.** (a) Real estate consisting of ten acres or more or a nursery
or greenhouse, and qualifying for classification as class 2a under section 273.13, shall be
entitled to valuation and tax deferment under this section if it is primarily devoted to
agricultural use, and either:

(1) is the homestead of the owner, or of a surviving spouse, child, or sibling of the
owner or is real estate which is farmed with the real estate which contains the homestead
property; or

(2) has been in possession of the applicant, the applicant's spouse, parent, or sibling,
or any combination thereof, for a period of at least seven years prior to application for
benefits under the provisions of this section, or is real estate which is farmed with the
real estate which qualifies under this clause and is within four townships or cities or
combination thereof from the qualifying real estate; or

(3) is the homestead of an individual who is part of an entity described in paragraph
(b), clause (1), (2), or (3); or

(4) is in the possession of a nursery or greenhouse or an entity owned by a proprietor,
partnership, or corporation which also owns the nursery or greenhouse operations on the

parcel or parcels, provided that only the acres used to produce nursery stock qualify for treatment under this section.

(b) Valuation of real estate under this section is limited to parcels owned by individuals except for:

(1) a family farm entity or authorized farm entity regulated under section 500.24;

(2) an entity, not regulated under section 500.24, in which the majority of the members, partners, or shareholders are related and at least one of the members, partners, or shareholders either resides on the land or actively operates the land; and

(3) corporations that derive 80 percent or more of their gross receipts from the wholesale or retail sale of horticultural or nursery stock.

The terms in this paragraph have the meanings given in section 500.24, where applicable.

(c) Land that previously qualified for tax deferment under this section and no longer qualifies because it is not primarily used for agricultural purposes but would otherwise qualify under Minnesota Statutes 2006, section 273.111, subdivision 3, for a period of at least three years will not be required to make payment of the previously deferred taxes, notwithstanding the provisions of subdivision 9. Sale of the land prior to the expiration of the three-year period requires payment of deferred taxes as follows: sale in the year the land no longer qualifies requires payment of the current year's deferred taxes plus payment of deferred taxes for the two prior years; sale during the second year the land no longer qualifies requires payment of the current year's deferred taxes plus payment of the deferred taxes for the prior year; and sale during the third year the land no longer qualifies requires payment of the current year's deferred taxes. Deferred taxes shall be paid even if the land qualifies pursuant to subdivision 11a. When such property is sold or no longer qualifies under this paragraph, or at the end of the three-year period, whichever comes first, all deferred special assessments plus interest are payable in equal installments spread over the time remaining until the last maturity date of the bonds issued to finance the improvement for which the assessments were levied. If the bonds have matured, the deferred special assessments plus interest are payable within 90 days. The provisions of section 429.061, subdivision 2 2e, apply to the collection of these installments. Penalties are not imposed on any such special assessments if timely paid.

(d) Land that is enrolled in the reinvest in Minnesota program under sections 103F.501 to 103F.535, the federal Conservation Reserve Program as contained in Public Law 99-198, or a similar state or federal conservation program qualifies for valuation and assessment deferral under this section if it was in agricultural use before enrollment and,

provided that, in the case of land enrolled in the reinvest in Minnesota program, it is not subject to a perpetual easement.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 2. Minnesota Statutes 2012, section 273.111, subdivision 11, is amended to read:

Subd. 11. **Special local assessments.** The payment of special local assessments levied after June 1, 1967, for improvements made to any real property described in subdivision 3 together with the interest thereon shall, on timely application as provided in subdivision 8, be deferred as long as such property meets the conditions contained in subdivision 3 or 3a or is transferred to an agricultural preserve under sections 473H.02 to 473H.17. If special assessments against the property have been deferred pursuant to this subdivision, the governmental unit shall file with the county recorder in the county in which the property is located a certificate containing the legal description of the affected property and of the amount deferred. When such property no longer qualifies under subdivision 3 or 3a, all deferred special assessments plus interest shall be payable in equal installments spread over the time remaining until the last maturity date of the bonds issued to finance the improvement for which the assessments were levied. If the bonds have matured, the deferred special assessments plus interest shall be payable within 90 days. The provisions of section 429.061, subdivision 2 2e, apply to the collection of these installments. Penalty shall not be levied on any such special assessments if timely paid.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 3. Minnesota Statutes 2012, section 273.114, subdivision 8, is amended to read:

Subd. 8. **Special local assessments.** The payment of special local assessments levied after June 1, 2011, for improvements made to any real property described in subdivision 1 together with the interest thereon shall, on timely application as provided in subdivision 6, be deferred as long as the property meets the conditions contained in this section. If special assessments against the property have been deferred pursuant to this subdivision, the governmental unit shall file with the county recorder in the county in which the property is located a certificate containing the legal description of the affected property and of the amount deferred. When the property no longer qualifies under subdivision 1, all deferred special assessments plus interest shall be payable in equal installments spread over the time remaining until the last maturity date of the bonds issued to finance the improvement for which the assessments were levied. If the bonds have matured, the deferred special assessments plus interest shall be payable within 90

days. The provisions of section 429.061, subdivision ~~2~~ 2e, apply to the collection of these installments. A penalty shall not be levied on these special assessments if timely paid. This subdivision does not apply to special assessments levied at any time by a county or district court under chapter 116A or by a watershed district under chapter 103D.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 4. Minnesota Statutes 2012, section 429.061, subdivision 1, is amended to read:

Subdivision 1. **Calculation, notice.** At any time after the expense incurred or to be incurred in making an improvement shall be calculated under the direction of the council, the council shall determine by resolution the amount of the total expense the municipality will pay, other than the amount, if any, which it will pay as a property owner, and the amount to be assessed. ~~If a county proposes to assess within the boundaries of a city for a county state-aid highway or county highway, including curbs, gutters, and storm sewers, the resolution must include the portion of the cost proposed to be assessed within the city. The county shall forward the resolution to the city and it may not proceed with the assessment procedure nor may the county allocate any cost under this section for property within the city unless the city council adopts the resolution approving the assessment.~~ Thereupon the clerk, with the assistance of the engineer or other qualified person selected by the council, shall calculate the proper amount to be specially assessed for the improvement against every assessable lot, piece or parcel of land, without regard to cash valuation, in accordance with the provisions of section 429.051. The proposed assessment roll shall be filed with the clerk and be open to public inspection. The clerk shall thereupon, under the council's direction, publish notice that the council will meet to consider the proposed assessment. ~~Such~~ The notice shall be published in the newspaper at least once and shall be mailed to the owner of each parcel described in the assessment roll. For the purpose of giving mailed notice under this subdivision, owners shall be those shown to be such on the records of the county auditor or, in any county where tax statements are mailed by the county treasurer, on the records of the county treasurer; but other appropriate records may be used for this purpose. ~~Such~~ The publication and mailing shall be no less than two weeks prior to such meeting of the council. Except as to the owners of tax-exempt property or property taxes on a gross earnings basis, every property owner whose name does not appear on the records of the county auditor or the county treasurer shall be deemed to have waived such mailed notice unless the owner has requested in writing that the county auditor or county treasurer, as the case may be, include the name on the records for such purpose. ~~Such~~ The notice shall state the date, time, and place of such meeting, the general nature of the improvement, the area proposed to be

assessed, the total amount of the proposed assessment, that the proposed assessment roll is on the file with the clerk, and that written or oral objections thereto by any property owner will be considered. The notice must also state that no appeal may be taken as to the amount of any assessment adopted ~~pursuant to subdivision 2~~ under this section, unless a written objection signed by the affected property owner is filed with the municipal clerk prior to the assessment hearing or presented to the presiding officer at the hearing. The notice shall also state that an owner may appeal an assessment to district court pursuant to section 429.081 by serving notice of the appeal upon the mayor or clerk of the municipality within 30 days after the adoption of the assessment and filing such notice with the district court within ten days after service upon the mayor or clerk. The notice shall also inform property owners of the provisions of sections 435.193 to 435.195 and the existence of any deferment procedure established pursuant thereto in the municipality. In addition, the notice mailed to the owner must state in clear language the following information:

(1) the amount to be specially assessed against that particular lot, piece, or parcel of land;

(2) adoption by the council of the proposed assessment may be taken at the hearing;

(3) the right of the property owner to prepay the entire assessment and the person to whom prepayment must be made;

(4) whether partial prepayment of the assessment has been authorized by ordinance;

(5) the time within which prepayment may be made without the assessment of interest; and

(6) the rate of interest to be accrued if the assessment is not prepaid within the required time period.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 5. Minnesota Statutes 2012, section 429.061, is amended by adding a subdivision to read:

Subd. 1a. County assessment within city jurisdiction. If a county proposes to assess within the boundaries of a city for a county state-aid highway or county highway, including curbs, gutters, and storm sewers, the resolution must include the portion of the cost proposed to be assessed within the city. The county shall forward the resolution to the city and it may not proceed with the assessment procedure nor may the county allocate any cost under this section for property within the city unless the city council adopts the resolution approving the assessment.

EFFECTIVE DATE. This section is effective the day following final enactment.

6.1 Sec. 6. Minnesota Statutes 2012, section 429.061, is amended by adding a subdivision
6.2 to read:

6.3 Subd. 1b. **When objections must be filed.** No appeal may be taken as to the amount
6.4 of any assessment adopted under this section unless written objection signed by the
6.5 affected property owner is filed with the municipal clerk prior to the assessment hearing
6.6 or presented to the presiding officer at the hearing. All objections to the assessments
6.7 not received at the assessment hearing in the manner prescribed by this subdivision are
6.8 waived, unless the failure to object at the assessment hearing is due to a reasonable cause.

6.9 **EFFECTIVE DATE.** This section is effective the day following final enactment.

6.10 Sec. 7. Minnesota Statutes 2012, section 429.061, subdivision 2, is amended to read:

6.11 Subd. 2. **Hearing; consideration of objections; adoption; interest.** (a) At such
6.12 the meeting or at any adjournment thereof on the proposed assessment, the council shall
6.13 hear and pass upon all objections to the proposed assessment, whether presented orally
6.14 or in writing. The council may amend by resolution the proposed assessment as to any
6.15 parcel and by resolution adopt the same as the special assessment against the lands named
6.16 in the assessment roll. Notice of any adjournment of the hearing shall be adequate if the
6.17 minutes of the meeting so adjourned show the time and place when and where the hearing
6.18 is to be continued.

6.19 (b) The council may continue the hearing at a later date. Notice of the continuance
6.20 is adequate if the council meeting minutes state the time and place where the hearing
6.21 will be continued. The council may consider any objection to the amount of a proposed
6.22 assessment as to a specific parcel of land at an adjourned the continued hearing upon
6.23 further notice to the affected property owner as it deems advisable. At the adjourned
6.24 continued hearing the council or a committee of it may hear further written or oral
6.25 testimony on behalf of the objecting property owner and may consider further written or
6.26 oral testimony from appropriate city officials and other witnesses as to the amount of the
6.27 assessment. The council or committee shall prepare a record of the proceedings at the
6.28 adjourned continued hearing and written findings as to the amount of the assessment. The
6.29 amount of the assessment as finally determined by the council shall become a part of the
6.30 adopted assessment roll. No appeal may be taken as to the amount of any assessment
6.31 adopted under this section unless written objection signed by the affected property owner
6.32 is filed with the municipal clerk prior to the assessment hearing or presented to the
6.33 presiding officer at the hearing. All objections to the assessments not received at the
6.34 assessment hearing in the manner prescribed by this subdivision are waived, unless the
6.35 failure to object at the assessment hearing is due to a reasonable cause.

7.1 If the adopted assessment differs from the proposed assessment as to any particular
7.2 lot, piece, or parcel of land, the clerk must mail to the owner a notice stating the amount of
7.3 the adopted assessment. Owners must also be notified by mail of any changes adopted
7.4 by the council in interest rates or prepayment requirements from those contained in the
7.5 notice of the proposed assessment.

7.6 The assessment, with accruing interest, shall be a lien upon all private and public
7.7 property included therein, from the date of the resolution adopting the assessment,
7.8 concurrent with general taxes; but the lien shall not be enforceable against public property
7.9 as long as it is publicly owned, and during such period the assessment shall be recoverable
7.10 from the owner of such property only in the manner and to the extent provided in section
7.11 435.19. Unless otherwise provided in the resolution, all assessments shall be payable in
7.12 equal annual installments extending over such period, not exceeding 30 years, as the
7.13 resolution determines, payable on the first Monday in January in each year, but the number
7.14 of installments need not be uniform for all assessments included in a single assessment
7.15 roll if a uniform criterion for determining the number of installments is provided by
7.16 the resolution. Assessments on property located in a targeted neighborhood as defined
7.17 in Laws 1987, chapter 386, article 6, section 4, may be payable in variable annual
7.18 installments if the resolution provides for a variable payment. The first installment of each
7.19 assessment shall be included in the first tax rolls completed after its adoption and shall be
7.20 payable in the same year as the taxes contained therein; except that the payment of the
7.21 first installment of any assessment levied upon unimproved property may be deferred
7.22 until a designated future year, or until the platting of the property or the construction of
7.23 improvements thereon, upon such terms and conditions and based upon such standards
7.24 and criteria as may be provided by resolution of the council. If special assessments against
7.25 the property have been deferred pursuant to this subdivision, the governmental unit shall
7.26 record with the county recorder in the county in which the property is located a certificate
7.27 containing the legal description of the affected property and of the amount deferred. In any
7.28 event, every assessment the payment of which is so deferred, when it becomes payable,
7.29 shall be divided into a number of installments such that the last installment thereof will
7.30 be payable not more than 30 years after the levy of the assessment. All assessments
7.31 shall bear interest at such rate as the resolution determines. To the first installment of
7.32 each assessment shall be added interest on the entire assessment from a date specified in
7.33 the resolution levying the assessment, not earlier than the date of the resolution, until
7.34 December 31 of the year in which the first installment is payable, and to each subsequent
7.35 installment shall be added interest for one year on all unpaid installments; or alternatively,
7.36 any assessment may be made payable in equal annual installments including principal and

interest, each in the amount annually required to pay the principal over such period with interest at such rate as the resolution determines, not exceeding the maximum period and rate specified above. In the latter event no prepayment shall be accepted under subdivision 3 without payment of all installments due to and including December 31 of the year of prepayment, together with the original principal amount reduced only by the amounts of principal included in such installments, computed on an annual amortization basis. When payment of an assessment is deferred, as authorized in this subdivision, interest thereon for the period of deferment may be made payable annually at the same times as the principal installments of the assessment would have been payable if not deferred; or interest for this period may be added to the principal amount of the assessment when it becomes payable; or, if so provided in the resolution levying the assessment, interest thereon to December 31 of the year before the first installment is payable may be forgiven.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 8. Minnesota Statutes 2012, section 429.061, is amended by adding a subdivision to read:

Subd. 2a. Notice of changes adopted. If the adopted assessment differs from the proposed assessment as to any particular lot, piece, or parcel of land, the clerk must mail to the owner a notice stating the amount of the adopted assessment. Owners must also be notified by mail of any changes adopted by the council in interest rates or prepayment requirements from those contained in the notice of the proposed assessment.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 9. Minnesota Statutes 2012, section 429.061, is amended by adding a subdivision to read:

Subd. 2b. Payment in installments. Unless otherwise provided in the resolution, all assessments shall be payable in equal annual installments extending over such period, not exceeding 30 years, as the resolution determines, payable on the first Monday in January in each year, but the number of installments need not be uniform for all assessments included in a single assessment roll if a uniform criterion for determining the number of installments is provided by the resolution. Assessments on property located in a targeted community as defined in section 469.201, subdivision 10, may be payable in variable annual installments if the resolution provides for a variable payment. The first installment of each assessment shall be included in the first tax rolls completed after its adoption and shall be payable in the same year as the taxes contained therein.

9.1 **EFFECTIVE DATE.** This section is effective the day following final enactment.

9.2 Sec. 10. Minnesota Statutes 2012, section 429.061, is amended by adding a subdivision
9.3 to read:

9.4 Subd. 2c. **Interest.** All assessments shall bear interest at such rate as the resolution
9.5 determines. To the first installment of each assessment shall be added interest on the entire
9.6 assessment from a date specified in the resolution levying the assessment, not earlier than
9.7 the date of the resolution, until December 31 of the year in which the first installment is
9.8 payable, and to each subsequent installment shall be added interest for one year on all
9.9 unpaid installments; or alternatively, any assessment may be made payable in equal annual
9.10 installments including principal and interest, each in the amount annually required to pay
9.11 the principal over such period with interest at such rate as the resolution determines, not
9.12 exceeding the maximum period and rate specified above. In the latter event no prepayment
9.13 shall be accepted under subdivision 3 without payment of all installments due to and
9.14 including December 31 of the year of prepayment, together with the original principal
9.15 amount reduced only by the amounts of principal included in such installments, computed
9.16 on an annual amortization basis.

9.17 **EFFECTIVE DATE.** This section is effective the day following final enactment.

9.18 Sec. 11. Minnesota Statutes 2012, section 429.061, is amended by adding a subdivision
9.19 to read:

9.20 Subd. 2d. **Lien.** The assessment, with accruing interest, shall be a lien upon all
9.21 private and public property included therein, from the date of the resolution adopting the
9.22 assessment, concurrent with general taxes. However, the lien shall not be enforceable
9.23 against public property as long as it is publicly owned, and while the property is publicly
9.24 owned the assessment shall be recoverable from the owner of the property only in the
9.25 manner and to the extent provided in section 435.19.

9.26 **EFFECTIVE DATE.** This section is effective the day following final enactment.

9.27 Sec. 12. Minnesota Statutes 2012, section 429.061, is amended by adding a subdivision
9.28 to read:

9.29 Subd. 2e. **Deferred payment for certain properties.** (a) "Unimproved property"
9.30 for the purposes of this subdivision means:

9.31 (1) unplatted property;

9.32 (2) platted property with no buildings, landscaping, or other betterments; or

10.1 (3) property located in a redevelopment district, as defined in section 469.174, that is
10.2 not yet developed at the likely level of use of or benefit from the improvements to be paid
10.3 from the special assessments imposed on the property, as planned by the municipality or
10.4 the owner, and that is consistent with the adopted local comprehensive plan, if there is one.

10.5 (b) The payment of the first installment of any assessment levied upon unimproved
10.6 property may be deferred until a designated future year upon such terms and conditions
10.7 and based upon such standards and criteria as may be provided by resolution of the council.
10.8 If special assessments against the property have been deferred pursuant to this subdivision,
10.9 the governmental unit shall record with the county recorder in the county in which the
10.10 property is located a certificate containing the legal description of the affected property and
10.11 of the amount deferred. In any event, every assessment the payment of which is so deferred,
10.12 when it becomes payable, shall be divided into a number of installments such that the last
10.13 installment thereof will be payable not more than 30 years after the levy of the assessment.
10.14 When payment of an assessment is deferred, as authorized in this subdivision, interest
10.15 thereon for the period of deferment may be made payable annually at the same times as
10.16 the principal installments of the assessment would have been payable if not deferred; or
10.17 interest for this period may be added to the principal amount of the assessment when it
10.18 becomes payable; or, if so provided in the resolution levying the assessment, interest
10.19 thereon to December 31 of the year before the first installment is payable may be forgiven.

10.20 **EFFECTIVE DATE.** This section is effective the day following final enactment.